

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

UNITED STATES OF AMERICA) No. EP-20-CR-389-DCG
)
vs.) El Paso, Texas
)
PATRICK WOOD CRUSIUS) July 5, 2023

SENTENCING

VOLUME 1 OF 3

BEFORE THE HONORABLE DAVID C. GUADERRAMA

UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

FOR THE GOVERNMENT:

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19 Also present:

20 MS. JESSICA AVILA
21 Senior U.S. Probation Officer

22
23
24 Proceedings reported by stenotype. Transcript produced by
25 computer-aided transcription.

1 (Certified Court Interpreters Esperanza Gallegos and Barbara
2 Espinosa present to interpret for audience members.)

3 THE COURT: Good morning, everyone. Please be seated.

4 I'll begin by apologizing to you for the temperature
5 in the room. I've been informed that over the weekend our
6 chiller systems went down. They have some floors up and
7 running. This floor, they now have it about 50 percent, so it
8 should continue to cool some, and we're expecting that perhaps
9 by this afternoon we should have everything online, and it
10 should be more comfortable for all of you. My sincere
11 apologies to you for that.

12 And, on top of that, looks like my computer system is
13 not working as well either, so...

14 Mr. Velez, if you would call the case, please.

15 THE CLERK: Cause Number EP-20-CR-389, the United
16 States versus Patrick Wood Crusius.

17 THE COURT: Ask for announcements, please.

18 MR. HANNA: Good morning, Your Honor. Ian Hanna, Greg
19 McDonald, Mike Warbel, and Patricia Acosta for the United
20 States, and we're ready.

21 THE COURT: All right. Good morning to all of you.

22 MR. SPENCER: Good morning, Your Honor. Rebecca
23 Hudsmith, Mark Stevens, Felix Valenzuela and Joe Spencer on
24 behalf of Patrick Crusius. We're ready to proceed.

25 THE COURT: All right. Good morning to all of you as

1 well.

2 PROBATION OFFICER: Good morning, Your Honor. Jessica
3 Avila, Senior United States Probation Officer.

4 THE COURT: All right. Good morning, Ms. Avila.
5 Before we go any further, I want to give my most sincere thanks
6 to Ms. Avila for having produced this report. 123 pages, 728
7 paragraphs. She did it on an accelerated timeline to
8 accommodate us and being able to reach sentencing at this
9 point, and I thank you for your service, ma'am.

10 PROBATION OFFICER: You're welcome, Your Honor.

11 THE COURT: All right. Good morning to you,
12 Mr. Crusius.

13 You are Patrick Wood Crusius, the Defendant in this
14 case; is that correct?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: All right. Mr. Crusius, on February
17 the 8th of this year, you pled guilty to a Superseding
18 Indictment to 90 counts. Counts 1 through 23 to the charge of
19 hate crime resulting in death.

20 Counts 24 through 46 to the charge of use of a firearm
21 to commit murder during and in relation to a crime of violence.

22 Counts 47 through 68 to the crime of hate crime
23 involving an attempt to kill.

24 And, Counts 69 through 90 to the charge of use of a
25 firearm during and in relation to a crime of violence; is that

1 correct?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: All right. Mr. Crusius, prior to this
4 morning, did you have an opportunity to review and discuss
5 Ms. Avila's -- or Officer Avila's report with Mr. Spencer or
6 one of your other attorneys?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: In her report, Officer Avila, in Count 1,
9 Andre Anchondo was a victim of a hate crime resulting in death.
10 Ms. Avila scores this Base Offense Level at 43.

11 We make a victim-related adjustment in that I find and
12 determine beyond a reasonable doubt that you intentionally
13 selected this victim, as well as other victims, as the object
14 of this offense of conviction because of the actual or
15 perceived national origin or ethnicity of any person. For that
16 we add 3 levels. The Adjusted Offense Level for Count 1 would
17 be 46.

18 Mr. Spencer, any objection to this calculation?

19 MR. SPENCER: No, Your Honor.

20 THE COURT: Mr. Hanna?

21 MR. HANNA: No, Your Honor.

22 THE COURT: All right. In Count 2, Jordan Kae
23 Anchondo was a victim of a hate crime resulting in death.
24 Ms. Avila scores the Base Offense Level at 43.

25 I make a victim-related adjustment by finding at this

1 sentencing hearing beyond a reasonable doubt that the Defendant
2 intentionally selected any victim because of the actual or
3 perceived national origin or ethnicity of any person, and we
4 add 3 levels making our Adjusted Offense Level 46.

5 Mr. Spencer, any objection?

6 MR. SPENCER: No, Your Honor.

7 THE COURT: Mr. Hanna?

8 MR. HANNA: No, Your Honor.

9 THE COURT: In Count 3, Arturo Benavides was a victim
10 of a hate crime resulting in death. Ms. Avila scores the Base
11 Offense Level at 43.

12 I make a victim-related adjustment finding in today's
13 sentencing beyond a reasonable doubt that the Defendant
14 selected any victim because of the actual or perceived national
15 origin or ethnicity of any person. We add 3 levels. Our
16 Adjusted Offense Level would be 46.

17 Mr. Spencer, any objection?

18 MR. SPENCER: No, Your Honor.

19 THE COURT: Mr. Hanna?

20 MR. HANNA: No, Your Honor.

21 THE COURT: In Count 4, Jorge Calvillo Garcia was a
22 victim of a hate crime resulting in death. Ms. Avila scores
23 the Base Offense Level at 43.

24 I make a victim-related adjustment finding beyond a
25 reasonable doubt that the Defendant intentionally selected any

1 victim because of the actual or perceived race -- I'm sorry,
2 perceived national origin or ethnicity of any person. We add 3
3 levels. Our Adjusted Offense Level would be 46.

4 Mr. Spencer, any objection?

5 MR. SPENCER: No, Your Honor.

6 THE COURT: Mr. Hanna?

7 MR. HANNA: No, Your Honor.

8 THE COURT: In Count 5, Leonardo Campos was a victim
9 of a hate crime resulting in death. Ms. Avila scores the Base
10 Offense Level at 43.

11 I make a victim-related adjustment by finding beyond a
12 reasonable doubt that the Defendant intentionally selected the
13 victim as the object of the offense of conviction because of
14 the actual or perceived national origin or ethnicity of any
15 person. We add 3 levels. This would make our Adjusted Offense
16 Level 46.

17 Mr. Spencer, any objection?

18 MR. SPENCER: No, Your Honor.

19 THE COURT: Mr. Hanna?

20 MR. HANNA: No, Your Honor.

21 THE COURT: In Count 6, Angelina Silva Englisbee was a
22 victim of a hate crime resulting in death. Ms. Avila scores
23 the Base Offense Level at 43.

24 I make a victim-related adjustment by finding beyond a
25 reasonable doubt that the Defendant intentionally selected any

1 victim as the object of the offense because of the actual or
2 perceived national origin or ethnicity of any person. We add 3
3 levels.

4 I make an additional victim-related adjustment because
5 I find the Defendant knew or should have known the victim of
6 the offense was a vulnerable victim, and this in the case of
7 Ms. Englisbee. Because of her advanced age, we add 2 levels
8 making our Adjusted Offense Level 48.

9 Mr. Spencer, any objection?

10 MR. SPENCER: No, Your Honor.

11 THE COURT: Mr. Hanna?

12 MR. HANNA: No, Your Honor.

13 THE COURT: In Count 7, Maria Muñoz Flores was a
14 victim of a hate crime resulting in death. Ms. Avila scores
15 the Base Offense Level at 43.

16 I make a victim-related adjustment by determining
17 beyond a reasonable doubt that the Defendant intentionally
18 selected this victim as the object of the offense of conviction
19 because of the actual or perceived national origin or ethnicity
20 of the victim. We add 3 levels.

21 I make an additional victim-related adjustment by
22 finding the Defendant knew or should have known the victim of
23 the offense was a vulnerable victim particularly due to her
24 advanced age. We add 2 levels making our Total Offense Level
25 48.

1 Mr. Spencer, any objection?

2 MR. SPENCER: No, Your Honor.

3 THE COURT: Mr. Hanna?

4 MR. HANNA: No, Your Honor.

5 THE COURT: In Count 8, Raul Estrada Flores was a
6 victim of a hate crime resulting in death. Ms. Avila scores
7 this Base Offense Level at 43.

8 I make a victim-related adjustment by finding that the
9 Defendant intentionally selected the victim as the object of
10 the offense of conviction because of the actual or perceived
11 national origin or ethnicity of any person, and we add 3
12 levels.

13 I make an additional victim-related adjustment because
14 I find the Defendant knew or should have known the victim of
15 the offense was a vulnerable victim particularly due to her --
16 to advanced age. We add 2 levels, so then make the Total
17 Adjusted Offense Level 48.

18 Mr. Spencer, any objection?

19 MR. SPENCER: No, Your Honor.

20 THE COURT: Mr. Hanna?

21 MR. HANNA: No, Your Honor.

22 THE COURT: In Count 9, Guillermo Garcia Sifuentes,
23 was a victim of a hate crime resulting in death. Officer Avila
24 scores the Base Offense Level at 43. I make a victim-related
25 adjustment by finding beyond a reasonable doubt that the

1 Defendant intentionally selected a victim as the object of the
2 offense of conviction because of the actual or perceived
3 national origin or ethnicity of any person, and we add 3 levels
4 for that making our Total Adjusted Offense Level 46.

5 Mr. Spencer, any objection?

6 MR. SPENCER: No, Your Honor.

7 THE COURT: Mr. Hanna?

8 MR. HANNA: No, Your Honor.

9 THE COURT: In Count 10, Adolfo Cerros Hernandez was a
10 victim of a hate crime resulting in death. Officer Avila
11 scores the Base Offense Level at 43.

12 I make a victim-related adjustment by finding beyond a
13 reasonable doubt that the Defendant intentionally selected this
14 victim as the object of the offense of conviction because of
15 the actual or perceived national origin or ethnicity of any
16 person. We add 3 levels.

17 I make an additional victim-related adjustment because
18 I find the Defendant knew or should have known the victim of
19 the offense was a vulnerable victim particularly due to
20 advanced age. We add 2 levels making our Total Adjusted
21 Offense Level 48.

22 Mr. Spencer, any objection?

23 MR. SPENCER: No, Your Honor.

24 THE COURT: Mr. Hanna?

25 MR. HANNA: No, Your Honor.

1 THE COURT: In Count 11, Alexander Gerhard Hoffmann
2 was a victim of a hate crime resulting in death. Officer Avila
3 scores a Base Offense Level at 43.

4 I make the victim-related adjustment by determining
5 beyond a reasonable doubt that the Defendant intentionally
6 selected any victim as the object of the offense of conviction
7 because of the actual or perceived national origin or ethnicity
8 of any person. We add 3 levels.

9 I make an additional victim-related adjustment because
10 the Defendant -- I find the Defendant knew or should have known
11 the victim of the offense was a vulnerable victim particularly
12 due to advanced age. This would yield a Total Offense Level of
13 48.

14 Mr. Spencer, any objection to that?

15 MR. SPENCER: No, Your Honor.

16 THE COURT: Mr. Hanna?

17 MR. HANNA: No, Your Honor.

18 THE COURT: In Count 12, David Alvah Johnson is a
19 victim of a hate crime resulting in death. Officer Avila
20 scores the Base Offense Level at 43.

21 I make the victim-related adjustment by finding beyond
22 a reasonable doubt that the Defendant intentionally selected
23 any victim as the object of the offense of conviction because
24 of the actual or perceived national origin or ethnicity of any
25 person. We add 3 levels making our Total Offense Level 46.

1 Mr. Spencer, any objection?

2 MR. SPENCER: No, Your Honor?

3 THE COURT: Mr. Hanna?

4 MR. HANNA: No, Your Honor.

5 THE COURT: In Count 13, Luis Alfonso Juárez was a
6 victim of a hate crime resulting in death. Officer Avila
7 scores the Base Offense Level at 43.

8 I make the victim-related adjustment by determining
9 beyond a reasonable doubt that the Defendant intentionally
10 selected this victim as the object of the offense of conviction
11 because of the actual or perceived national origin or ethnicity
12 of any person. We add 3 levels.

13 I make an additional victim-related adjustment finding
14 that the Defendant knew or should have known that the victim of
15 the offense was a vulnerable victim particularly due to
16 advanced age. We add 2 levels making our Adjusted Offense
17 Level 48.

18 Mr. Spencer, do you concur?

19 MR. SPENCER: I do, Your Honor.

20 THE COURT: All right. Mr. Hanna, any objections?

21 MR. HANNA: No, Your Honor.

22 THE COURT: In Count 14, Maria Eugenia Legarreta Rothe
23 was a victim of a hate crime resulting in death. Officer Avila
24 scores her Base Offense Level at 43 -- or this Base Offense
25 Level at 43.

1 I make a victim-related adjustment by finding beyond a
2 reasonable doubt that the Defendant intentionally selected the
3 victim as the object of the offense of conviction because of
4 the actual or perceived national origin or ethnicity of any
5 person, adding 3 levels. Making the Total Adjusted Offense
6 Level 46.

7 Mr. Spencer, any objection?

8 MR. SPENCER: No objection, Your Honor.

9 THE COURT: Mr. Hanna, any --

10 MR. HANNA: No, Your Honor.

11 THE COURT: In Count 15, Maribel Loya Hernandez was
12 the victim of a hate crime resulting in death. Officer Avila
13 scores the Base Offense Level at 43.

14 I make the victim-related adjustment by finding beyond
15 a reasonable doubt that the Defendant intentionally selected
16 this victim as the object of the -- object of the offense of
17 conviction because of the actual or perceived national origin
18 or ethnicity of any person. We add 3 levels. This would make
19 our Adjusted Offense Level 46.

20 Mr. Spencer, any objection?

21 MR. SPENCER: No objection, Your Honor.

22 THE COURT: Mr. Hanna, any objection?

23 MR. HANNA: No, Your Honor.

24 THE COURT: In Count 16, Ivan Filiberto Manzano was a
25 victim of a hate crime resulting in death. Officer Avila

1 scores his Base Offense Level at 43.

2 I make a victim-related adjustment by determining
3 beyond a reasonable doubt that the Defendant intentionally
4 selected the victim as the object of the offense because of the
5 actual or perceived national origin or ethnicity of any person.
6 We add 3 levels making our Adjusted Offense Level 46.

7 Mr. Spencer, any objection?

8 MR. SPENCER: No objection, Your Honor.

9 THE COURT: Mr. Hanna?

10 MR. HANNA: No, Your Honor.

11 THE COURT: In Count 17, Gloria Irma Marquez was a
12 victim of a hate crime resulting in death. Officer Avila
13 scores her Base Offense Level at 43.

14 I make the victim-related adjustment by determining
15 beyond a reasonable doubt that the Defendant intentionally
16 selected this victim as the object of the offense of conviction
17 because of the actual or perceived national origin or
18 ethnicity. We add 3 levels making our Total Adjusted Offense
19 Level 46.

20 Mr. Spencer, any objection?

21 MR. SPENCER: No objection, Your Honor.

22 THE COURT: Mr. Hanna?

23 MR. HANNA: No, Your Honor.

24 THE COURT: In Count 18, Elsa Liboria Mendoza Marquez
25 was a victim of a hate crime resulting in death. Officer Avila

1 scores the Base Offense Level at 43.

2 I make the victim-related adjustment finding beyond a
3 reasonable doubt that the Defendant intentionally selected this
4 victim as the object of the offense of conviction because of
5 the actual or perceived national origin or ethnicity of any
6 person. We add 3 levels making our Total Adjusted Offense
7 Level 46.

8 Mr. Spencer, any objection?

9 MR. SPENCER: No objection, Your Honor.

10 THE COURT: Mr. Hanna?

11 MR. HANNA: No objection, Your Honor.

12 THE COURT: In Count 19, Margie Reckard was a victim
13 of a hate crime resulting in death. Officer Avila scores her
14 Base Offense Level at 43.

15 I make the victim-related adjustment determining
16 beyond a reasonable doubt that the Defendant intentionally
17 selected this victim as the object of the offense of conviction
18 because of the actual or perceived national origin or ethnicity
19 of any person. We add 3 levels making our Adjusted Offense
20 Level 46.

21 Mr. Spencer, any objection?

22 MR. SPENCER: No objection, Your Honor.

23 THE COURT: Mr. Hanna?

24 MR. HANNA: No, Your Honor.

25 THE COURT: In Count 20, Sara Esther Regalado Monreal

1 was a -- was a victim of a hate crime resulting in death.

2 Officer Avila scores the Base Offense Level at 43.

3 I make a finding beyond a reasonable doubt that the
4 Defendant intentionally selected this victim as the object of
5 the offense of conviction because of the actual or perceived
6 national origin or ethnicity of any person. We add 3 levels.

7 I additionally make the victim-related adjustment
8 finding that the Defendant knew or should have known the victim
9 of the offense was a vulnerable victim particularly due to her
10 advanced age. We add 2 levels. This would then yield a Total
11 Offense Level of 48.

12 Mr. Spencer, any objection?

13 MR. SPENCER: No objection, Your Honor.

14 THE COURT: Mr. Hanna?

15 MR. HANNA: No, Your Honor.

16 THE COURT: In Count 21, the minor victim initials
17 J.A.R. was a victim of a hate crime resulting in death.
18 Officer Avila scores his Base Offense Level -- or the Base
19 Offense Level for this victim at 43.

20 I make the victim-related adjustment by finding beyond
21 a reasonable doubt that the Defendant intentionally selected
22 this victim as the object of the offense of conviction because
23 of the actual or perceived national origin or ethnicity of any
24 person. We add 3 levels.

25 And, because I find the Defendant knew or should have

1 known that the victim of the offense was a vulnerable victim
2 particularly due to their youthful age, we add 2 levels as an
3 additional victim-related adjustment. This would then yield a
4 Total Offense Level 48.

5 Mr. Spencer, any objection?

6 MR. SPENCER: No, Your Honor.

7 MR. HANNA: No objection, Your Honor.

8 THE COURT: Mr. Hanna?

9 MR. HANNA: No, Your Honor.

10 THE COURT: In Count 22, Teresa Guerra Sanchez was the
11 victim of a hate crime resulting in death. Officer Avila
12 scores the Base Offense Level at 43.

13 I make the victim-related adjustment by determining
14 beyond a reasonable doubt that the Defendant intentionally
15 selected this victim as the object of the offense of conviction
16 because of the actual or perceived national origin or ethnicity
17 of any person. We increase the level by 3.

18 I make the additional victim-related adjustment by
19 finding beyond a reasonable -- by finding that the Defendant
20 knew or should have known that the victim of the offense was a
21 vulnerable victim due to advanced age. We add 2 levels. This
22 would then yield a Total Offense Level 48.

23 Mr. Spencer, any objection?

24 MR. SPENCER: No objection, Your Honor.

25 THE COURT: Mr. Hanna?

1 MR. HANNA: No, Your Honor.

2 THE COURT: In Count 23, Juan de Dios Velasquez was a
3 victim of a hate crime resulting in death. Officer Avila
4 scores the Base Offense Level at 43.

5 I make the victim-related adjustment by finding beyond
6 a reasonable doubt that the Defendant intentionally selected
7 this victim as the object of the offense of conviction because
8 of the actual or perceived national origin or ethnicity of any
9 person. We add 3 levels.

10 I make the additional victim-related adjustment by
11 finding the Defendant knew or should have known that the victim
12 of the offense was a vulnerable victim particularly due to the
13 advanced age of the victim. We add 2 levels. This would then
14 yield a Total Offense Level 48.

15 Mr. Spencer, any objection?

16 MR. SPENCER: No objection, Your Honor.

17 THE COURT: Mr. Hanna?

18 MR. HANNA: No objection, Your Honor.

19 THE COURT: For Counts 24 through 46, there are no
20 adjustments to be made. Officer Avila scores the guideline as
21 -- as stated at the mandatory minimum 10 years of imprisonment
22 which must run consecutive to any other term of imprisonment.
23 This is true for all Counts 24 through 46.

24 Mr. Spencer, any objection?

25 MR. SPENCER: No objections, Your Honor.

1 THE COURT: Mr. Hanna, any objection?

2 MR. HANNA: No objection, Your Honor.

3 THE COURT: In Count 47, the minor, whose initials are
4 P.G.A. was a victim of a hate crime involving attempt to kill.
5 Ms. Avila scores the Base Offense Level at 33.

6 I make a victim-related adjustment by determining
7 beyond a reasonable doubt that the Defendant intentionally
8 selected this victim as the object of the offense of conviction
9 because of the actual or perceived national origin or ethnicity
10 of any person. We add 3 levels because I find the Defendant
11 knew or should have known the victim of the offense was a
12 vulnerable victim due to youth. We add 2 levels. This would
13 then yield a Total Offense Level 38.

14 Mr. Spencer, any objection?

15 MR. SPENCER: No objections, Your Honor.

16 THE COURT: Mr. Hanna?

17 MR. HANNA: No, Your Honor.

18 THE COURT: In Count 48, Monica Arciniega Patiño was a
19 victim of a hate crime involving attempt to kill. Officer
20 Avila scores the Base Offense Level at 33.

21 I make the victim-related adjustment by finding beyond
22 a reasonable doubt the Defendant intentionally selected the
23 victim as an object to the offense of conviction because of the
24 actual or perceived national origin or ethnicity of any person.
25 We add 3 levels. This would then yield a Total Offense Level

1 36.

2 Mr. Spencer, any objection?

3 MR. SPENCER: No objection, Your Honor.

4 THE COURT: Mr. Hanna?

5 MR. HANNA: No, Your Honor.

6 THE COURT: In Count 49, Enrique Atilano was a victim
7 of a hate crime involving an attempt to kill. Officer Avila
8 scores the Base Offense Level at 33.

9 I make a victim-related adjustment finding beyond a
10 reasonable doubt that the Defendant intentionally selected this
11 victim as the object of the offense of conviction because of
12 the actual or perceived national origin or ethnicity of any
13 person. We add 3 levels yielding a Total Offense Level 36.

14 Mr. Spencer, any objection?

15 MR. SPENCER: No objection, Your Honor.

16 THE COURT: Mr. Hanna?

17 MR. HANNA: No, Your Honor.

18 THE COURT: In Count 50, Jeremy Adam Avila was a
19 victim of a hate crime involving an attempt to kill.
20 Officer Avila scores the Base Offense Level at 33.

21 I make the victim-related adjustment determining
22 beyond a reasonable doubt that the Defendant intentionally
23 selected this victim as the object of the offense of conviction
24 because of the actual or perceived national origin or ethnicity
25 of any person. We add 3 levels. This would yield a Total

1 Offense Level 36.

2 Mr. Spencer, any objection?

3 MR. SPENCER: No objection, Your Honor.

4 THE COURT: Mr. Hanna?

5 MR. HANNA: No objection, Your Honor.

6 THE COURT: In Count 51, Rosa Barron was a victim of a
7 hate crime involving attempt to kill. Officer Avila scores the
8 Base Offense Level at 33, and because of the degree of injury,
9 she suggests a 3-level increase of that which would mean a Base
10 Offense Level 36.

11 I make a victim-related adjustment finding beyond a
12 reasonable doubt that the Defendant intentionally selected this
13 victim as the object of the offense of conviction because of
14 the actual or perceived national origin or ethnicity of any
15 person. We add 3 levels.

16 And, because I further find the Defendant knew or
17 should have known that the victim of the offense was a
18 vulnerable victim particularly due to advanced age, we add 2
19 levels. This would then yield an Adjusted Offense Level 41.

20 Mr. Spencer, do you concur in that score?

21 MR. SPENCER: I do concur. No objection.

22 THE COURT: All right. Mr. Hanna, any objections?

23 MR. HANNA: No objections, Your Honor.

24 THE COURT: All right. In Count 52, Mario Alberto
25 Perez Briones was the victim of a hate crime involving an

1 attempt -- involving attempt to kill. Officer Avila scores the
2 Base Offense Level at 33. She then suggests a 4-level increase
3 because the victim sustained permanent or life-threatening
4 bodily injury making the Base Offense Level 37.

5 I would make a victim-related adjustment finding
6 beyond a reasonable doubt that the Defendant intentionally
7 selected this victim as the object of the offense of conviction
8 because of the actual or perceived national origin or ethnicity
9 of any person. We add 3 levels. This would then yield a Total
10 Offense Level 40.

11 Mr. Spencer, any objection?

12 MR. SPENCER: No objection, Your Honor.

13 THE COURT: Mr. Hanna?

14 MR. HANNA: No objection, Your Honor.

15 THE COURT: In Count 53, Rosa Calderon was a victim of
16 a hate crime involving attempt to kill. Officer Avila scores
17 the Base Offense Level at 33. Suggests a 4-level increase
18 because this victim had permanent and life-threatening bodily
19 injury. This would yield or produce a Base Offense Level 37.

20 I make the victim-related adjustment by finding beyond
21 a reasonable doubt that the Defendant intentionally selected
22 the victim as the object of the offense of conviction because
23 of the actual or perceived national origin or ethnicity of any
24 person. We add 3 levels because I further find that the
25 Defendant knew or should have known the victim of the offense

1 was a vulnerable victim due to her advanced age. We add 2
2 levels yielding a Total Offense Level of 42.

3 Mr. Spencer, any objection?

4 MR. SPENCER: No objection, Your Honor.

5 THE COURT: Mr. Hanna?

6 MR. HANNA: No objection, Your Honor.

7 THE COURT: In Count 54, Luis Ever Calvillo Quiroga
8 was a victim of a hate crime involving attempt to kill.

9 Officer Avila scores the Base Offense Level at 33. Suggests a
10 4-level increase because the victim sustained permanent or
11 life-threatening bodily injury. This makes the Base Offense
12 Level 37.

13 I make the victim-related adjustment by finding beyond
14 a reasonable doubt that the Defendant intentionally selected
15 the victim as the object of the offense of conviction because
16 of the actual or perceived national origin or ethnicity of any
17 person. We add 3 levels. This would then yield a Total
18 Offense Level of 40.

19 Mr. Spencer, any objection?

20 MR. SPENCER: No objection, Your Honor.

21 THE COURT: Mr. Hanna?

22 MR. HANNA: No objection, Your Honor.

23 THE COURT: In Count 55, Mario de Alba Montes was a
24 victim of a hate crime involving attempt to kill.

25 Officer Avila scores the Base Offense Level at 33. Suggesting

1 a 4-level increase to that because the victim sustained
2 permanent or life-threatening bodily injury. This would yield
3 a Base Offense Level of 37.

4 I make the victim-related adjustment by finding beyond
5 a reasonable doubt that the Defendant intentionally selected
6 the victim as the object of the offense of conviction because
7 of the actual or perceived national origin or ethnicity of any
8 person. I would add 3 levels. This would then make an
9 Adjusted Offense Level of 40.

10 Mr. Spencer, any objection?

11 MR. SPENCER: No objection, Your Honor.

12 THE COURT: Mr. Hanna?

13 MR. HANNA: No, Your Honor.

14 THE COURT: In Count 56, the minor whose initials are
15 E.G.D.A.R. was a victim of a hate crime involving an attempt to
16 kill. Officer Avila scores the Base Offense Level at 33.

17 I make the victim-related adjustment by finding beyond
18 a reasonable doubt that the Defendant intentionally selected
19 the victim as the object of the offense of conviction because
20 of the actual or perceived ethnicity or gender of any person.
21 We add 3 levels because I further find the Defendant knew or
22 should have known the victim of the offense was a vulnerable
23 victim due to his youthfulness. We add 2 levels. This then
24 makes our Adjusted Offense Level 38.

25 Mr. Spencer, any objection?

1 MR. SPENCER: No objection, Your Honor.

2 THE COURT: Mr. Hanna?

3 MR. HANNA: No objection, Your Honor.

4 THE COURT: In Count 57, Alma Enriquez De La Rosa was
5 a victim of a hate crime involving attempt to kill.
6 Officer Avila scores the Base Offense Level at 33.

7 I make the victim-related adjustment by finding beyond
8 a reasonable doubt that the Defendant intentionally selected
9 the victim as the object of the offense of conviction because
10 of the actual or perceived national origin or ethnicity of any
11 person. We add 3 levels. This yields an Adjusted Offense
12 Level of 36.

13 Mr. Spencer, any objection?

14 MR. SPENCER: No objection, Your Honor.

15 THE COURT: Mr. Hanna?

16 MR. HANNA: No objection, Your Honor.

17 THE COURT: In Count 58, Jessica Garcia was a victim
18 of a hate crime involving an attempt to kill. Officer Avila
19 scores the Base Offense Level at 33. Suggests a 3-level
20 increase because of the degree of injury yielding a Base
21 Offense Level 36.

22 I make the victim-related adjustment by finding beyond
23 a reasonable doubt that the Defendant selected the victim as
24 the object of the offense of conviction because of the actual
25 or perceived national origin or ethnicity of any person. We

1 add 3 levels. This makes our Adjusted Offense Level 39.

2 Mr. Spencer, any objection?

3 MR. SPENCER: No objection, Your Honor.

4 THE COURT: Mr. Hanna?

5 MR. HANNA: No, Your Honor.

6 THE COURT: In Count 59, Maria Magdalena González
7 Garcia was a victim of a hate crime involving attempt to kill.
8 Officer Avila scores her Base Offense Level at 33.

9 I make the victim-related adjustment by finding beyond
10 a reasonable doubt that the Defendant intentionally selected
11 the victim as the object of the offense of conviction because
12 of the actual or perceived national origin or ethnicity of any
13 person. We add 3 levels making our Adjusted Offense Level 36.

14 Mr. Spencer, any objection?

15 MR. SPENCER: No objection, Your Honor.

16 THE COURT: Mr. Hanna?

17 MR. HANNA: No, Your Honor.

18 THE COURT: In Count 60, Michelle Elize Grady was a
19 victim of a hate crime involving attempt to kill. Officer
20 Avila scores the Base Offense Level at 33. Because of the
21 seriousness of the injuries, suggests 2-level increase making
22 her Base Offense Level 35.

23 I make the victim-related adjustment by finding beyond
24 a reasonable doubt that the Defendant intentionally selected
25 this victim as the object of the offense of conviction because

1 of the actual or perceived national origin or ethnicity of any
2 person. I would add 3 levels for that making our Adjusted
3 Offense Level 38.

4 Mr. Spencer, any objection?

5 MR. SPENCER: No objection, Your Honor.

6 THE COURT: Mr. Hanna?

7 MR. HANNA: No, Your Honor.

8 THE COURT: In Count 61, Ernest Christopher Grant was
9 a victim of a hate crime involving attempt to kill. Ms. Avila
10 scores the Base Offense Level at 33. Because Mr. Grant
11 suffered permanent or life-threatening bodily injury suggests a
12 4-level increase making our Base Offense Level 37.

13 I make the victim-related adjustment by finding beyond
14 a reasonable doubt that the Defendant selected the victim as
15 the object of the offense of conviction because of the actual
16 or perceived national origin or ethnicity of any person adding
17 3 levels making our Adjusted Offense Level 40.

18 Mr. Spencer, any objection?

19 MR. SPENCER: No objection, Your Honor.

20 THE COURT: Mr. Hanna?

21 MR. HANNA: No, Your Honor.

22 THE COURT: In Count 62, Martha Juárez was a victim of
23 a hate crime involving attempt to kill. Officer Avila scores
24 the Base Offense Level at 33. Suggests a 4-level increase
25 because the victim suffered permanent or life-threatening

1 bodily injury making our Base Offense Level 37.

2 I make the victim-related adjustments by finding
3 beyond a reasonable doubt that the Defendant intentionally
4 selected the victim as the object of the offense of conviction
5 because of the actual or perceived national origin or ethnicity
6 of any person. We add 3 levels.

7 I make the additional victim-related adjustment by
8 finding the Defendant knew or should have known the victim of
9 the offense was a vulnerable victim due to her advanced age.
10 For that we add 2 levels making our Adjusted Offense Level 42.

11 In Count 63 --

12 MR. SPENCER: Your Honor, we have no objection.

13 THE COURT: Oh, I'm sorry. Mr. Spencer, any
14 objection?

15 MR. SPENCER: That's okay. No objection.

16 THE COURT: Mr. Hanna?

17 MR. HANNA: No objection.

18 THE COURT: All right. In Count 63, Maribel Saenz
19 Latin was a victim of a hate crime involving an attempt to
20 kill. Officer Avila scores the Base Offense Level at 33.
21 Because the victim sustained serious bodily injury suggests a
22 2-level increase making the Adjusted Base Offense Level 35.

23 I find beyond a reasonable doubt that the Defendant
24 intentionally selected the victim as the object of the offense
25 of conviction because of the actual or perceived national

1 origin or ethnicity of any person. We add 3 levels. This
2 would then yield a Total Offense Level 38.

3 Mr. Spencer, any objection?

4 MR. SPENCER: No objection, Your Honor.

5 THE COURT: Mr. Hanna?

6 MR. HANNA: No, Your Honor.

7 THE COURT: In Count 64, Octavio Ramiro Lizarde was
8 the victim of a hate crime involving an attempt to kill.
9 Officer Avila scores the Base Offense Level at 33. Suggests a
10 2-level increase because the victim suffered serious bodily
11 injury making our Adjusted Base Offense Level 35.

12 I make the victim-related adjustment by making -- by
13 finding beyond a reasonable doubt that the Defendant selected
14 the victim as the object of the offense of conviction because
15 of the actual or perceived national origin or ethnicity of any
16 person. I would add 3 levels. This would make our Adjusted
17 Offense Level 38.

18 Mr. Spencer, any objection?

19 MR. SPENCER: No objection, Your Honor.

20 THE COURT: Mr. Hanna?

21 MR. HANNA: No objection, Your Honor.

22 THE COURT: In Count 65, Olivia Rodriguez Marizcal was
23 the victim of a hate crime involving attempt to kill.
24 Officer Avila scores the Base Offense Level at 33 and suggests
25 a 3-level increase due to the degree of injury making the Base

1 Offense Level 36.

2 I make the victim-related adjustment finding beyond a
3 reasonable doubt that the Defendant intentionally selected the
4 victim as the object of the offense of conviction because of
5 the actual or perceived national origin or ethnicity of any
6 person. We add 3 levels for that. That would make our
7 Adjusted Offense Level 39.

8 Mr. Spencer, any objection?

9 MR. SPENCER: No objections, Your Honor.

10 THE COURT: Mr. Hanna?

11 MR. HANNA: No, Your Honor.

12 THE COURT: In Count 66, Nicolasa Estela Mena Zavala
13 Velasquez was a victim of a hate crime involving attempt to
14 kill. Officer Avila scores the Base Offense Level at 33
15 suggesting a 3-level increase because of the degree of injury
16 that was suffered by Ms. Zavala Velasquez. This would make our
17 Adjusted Base Offense Level 36.

18 I make the victim-related adjustment by finding beyond
19 a reasonable doubt the Defendant intentionally selected the
20 victim as the object of the offense of conviction because of
21 the actual or perceived national origin or ethnicity of any
22 person adding 3 levels.

23 The additional victim-related adjustment because I
24 find the Defendant knew or should have known the victim of the
25 offense was a vulnerable victim due to her advanced age adding

1 2 levels. This would make our Adjusted Offense Level 41.

2 In Count 67 --

3 MR. SPENCER: Your Honor, excuse me. We have no
4 objection.

5 THE COURT: I'm sorry, Mr. Spencer.

6 MR. SPENCER: Thanks, Your Honor.

7 THE COURT: Any objection, Mr. Spencer? You say no.
8 Mr. Hanna?

9 MR. HANNA: No, Your Honor.

10 THE COURT: In Count 67, Liliana Muñoz Puente was a
11 victim of a hate crime involving attempt to kill. Officer
12 Avila scores the Base Offense Level as Base Offense Level 33.
13 She suggests a 2-level increase to that because the victim
14 sustained serious bodily injury making the Base Offense Level
15 35.

16 I make the victim-related adjustment by finding beyond
17 a reasonable doubt that the Defendant intentionally selected
18 the victim as the object of the offense of conviction because
19 of the actual or perceived national origin or ethnicity of any
20 person adding 3 levels. This would yield a Total Offense Level
21 of 38.

22 Mr. Spencer, any objection?

23 MR. SPENCER: No objection, Your Honor.

24 THE COURT: Mr. Hanna?

25 MR. HANNA: No, Your Honor.

1 THE COURT: In Count 68, Rosemary Morales Vega was a
2 victim of a hate crime involving an attempt to kill. Officer
3 Avila scores her Base Offense Level at 33. Because
4 Ms. Morales Vega suffered permanent or life-threatening bodily
5 injury Officer Avila suggests a 4-level increase. This would
6 make our Base Offense Level 37.

7 I make the victim-related adjustment by finding beyond
8 a reasonable doubt that the Defendant intentionally selected
9 the victim as the object of the offense of conviction because
10 of the actual or perceived national origin or ethnicity of any
11 person. I would add 3 levels for that making our Adjusted
12 Offense Level 40.

13 Mr. Spencer, any objection?

14 MR. SPENCER: No objection, Your Honor.

15 THE COURT: Mr. Hanna?

16 MR. HANNA: No, Your Honor.

17 THE COURT: And, the remaining counts, Counts 69
18 through 90, Officer Avila indicates the guideline sentence to
19 be the statutory mandatory minimum 10 years stacked upon any
20 other sentence that might be imposed. This is true for each of
21 the Counts 69 through 90. There are no adjustments to this
22 calculation.

23 Mr. Spencer, any objection to that?

24 MR. SPENCER: No objections, Your Honor.

25 THE COURT: Mr. Hanna?

1 MR. HANNA: No, Your Honor.

2 THE COURT: So this brings us to Paragraph 639 where
3 we find the multiple-count adjustments. Basically, we'll be
4 adding -- we'll assign one unit to the group of -- to the count
5 with the highest score.

6 We'll add one additional unit for every count that is
7 equally serious or within 4 levels of seriousness of the most
8 serious count.

9 We'll add one-half unit to any count that is between 5
10 and 8 levels less serious than the most serious count. That
11 any count that is 9 levels or more less serious than the most
12 serious count receives no score.

13 So in this adjustment, counts -- our highest-scoring
14 counts are scored at 48. Counts 6, 7, 8, 10, 11, 13, 23, 22,
15 21 and 20.

16 Then the next Counts 1, 2, 3, 4, 5, looks like 9, 12,
17 14, 15, 16, 17, 18 and 19 have an Adjusted Level 46. So all of
18 those, Counts 1 through 23, receive an adjustment unit of one.

19 The mandatory minimum 10 don't score, so those are
20 excluded under the authority of 5G1.2.

21 Which brings us to the counts that score half a point.
22 Those would be 51, 52, 53, 54, 55. They score between 40 and
23 42, so they're in that mid-range. They get half a point as do
24 61, 62, 66 and 68. They all score half a point.

25 All the other counts, those are the last group of

1 statutory mandatory minimum, 69 through 90. They do not
2 receive a score.

3 So, in Counts 1 through 23, we have 23 points, and
4 then in Counts 51 through 68, excluding 67, we have
5 four-and-a-half points.

6 So, those total 27-and-a-half. So, the guideline --
7 Sentencing Guideline Section 3D1.4 indicates that we max out
8 the number of additional units. We add to 5, so the 27.5 just
9 becomes a plain old 5. We add that 5 to the 48. That would
10 put us at a score of 53. That's the counts with the highest
11 score of 53.

12 We go on to acceptance of responsibility. Ms. Avila
13 is indicating since the Defendant accepted responsibility we
14 would reduce this by 3 levels. This however would require the
15 Government to move for that third level.

16 MR. HANNA: The Government so moves, Your Honor.

17 THE COURT: That would be granted. Taken 3 from 53
18 would make the Total Offense Level 50, but the maximum levels
19 are 43, so the 50 then becomes the max, 43.

20 So, 43 is going to be our Total Offense Level, and our
21 Criminal History Category is calculated by Ms. Avila at a
22 Criminal History Category I, so we would be at 43 and I on our
23 calculations.

24 Mr. Spencer, do you concur in that?

25 MR. SPENCER: I agree, Your Honor.

1 THE COURT: And Mr. Hanna?

2 MR. HANNA: The Government also concurs, Your Honor.

3 THE COURT: All right. So, at 43 and I, the suggested
4 guideline sentence for Counts 1 through 23 would be life on
5 each count.

6 For Counts 24 through 46, the suggested guideline
7 range or guideline for Counts 24 through 46 would be the
8 mandatory minimum 10 stacked upon any other time to be served.

9 For Counts 47 through 68, the suggested guideline
10 would be life on each count.

11 And, for Counts 69 through 90, the suggested guideline
12 sentence would be the mandatory minimum of 10 years stacked
13 upon or consecutive to all other counts.

14 In terms of supervised release, Counts 1 through 23,
15 Counts 24 through 46, Counts 47 through 68, and Counts 69
16 through 90 would all carry no less than 2, no more than 5 years
17 of supervised release.

18 The Defendant would not be eligible for probation.

19 Would be subject to a fine, no less than \$50,000 no
20 more than \$250,000.

21 He is subject to restitution which is pending. We
22 will, at the end of this proceeding, schedule a tentative
23 restitution hearing to give the probation department sufficient
24 time to -- to contact the growing universe of victims that they
25 need to contact.

1 Special assessment \$100 per count for all 90 counts,
2 making a total of \$9,000.

3 Mr. Hanna, is there any outstanding forfeiture
4 procedures that we need to address, or have those been
5 administratively addressed?

6 MR. HANNA: Your Honor, forfeiture is not going to be
7 pursued judicially. Pursuant to the agreement of the parties,
8 the defendant has abandoned any and all right to title and
9 interest in such properties, so that's already been taken care
10 of.

11 THE COURT: So you don't need that in the judgment?

12 MR. HANNA: Correct.

13 THE COURT: All right. So, that is the Court's
14 scoring of the guidelines.

15 Mr. Spencer, any objections to the scoring or
16 corrections or objections to the report?

17 MR. SPENCER: Your Honor, we have no objections or
18 corrections to the report. The minor corrections that were
19 asked for were typographical, and they've already been
20 corrected, so there are no further objections to the Court.

21 THE COURT: All right. Thank you, sir.

22 Mr. Hanna, on behalf of the Government, any objections
23 to the scoring or corrections to the report?

24 MR. HANNA: No objection to anything in the report,
25 Your Honor.

1 THE COURT: All right. The Court then adopts the PSR
2 and its factual findings.

3 I do note that the parties, even though we've
4 accurately calculated the guidelines, there is an 11(c)(1)(C)
5 plea agreement which the Court has already accepted, which
6 would bind the Court to impose 90 consecutive life sentences as
7 a sentence.

8 All right. In terms of a restitution hearing,
9 Ms. Avila, tell me where we're at. How much more work do you
10 have to do, and when do you anticipate we might be able to
11 accomplish that?

12 PROBATION OFFICER: Yes, Your Honor. We are still in
13 the process of reaching out to agencies and other first-hand
14 witnesses that we're able to -- that are eligible for
15 restitution.

16 We're still reaching out to the identified victims for
17 documentation and any type of victims' declaration losses that
18 they would please fill out the form. And, we'll continue on
19 that.

20 That's where we're at, Your Honor. We have about
21 maybe three restitution requests, but we still need more
22 documents.

23 THE COURT: Do you have any guess as to how much time
24 that's going to take?

25 PROBATION OFFICER: I -- I really can't say,

1 Your Honor. I'm hoping that the 90 days will be sufficient,
2 Your Honor, to get to that point. The local agencies are
3 already in the preparation process of preparing the reports and
4 sending it over to me.

5 As far as the victims, it's just a matter of trying to
6 get those documentations from them, and see if the first-hand
7 witnesses are eligible for restitution.

8 THE COURT: All right. So my suggestion to the
9 parties, and you tell me if you have a different suggestion,
10 but I'm thinking we'll set a restitution hearing 80 days out,
11 just inside the 90-day window, and at that point if we can
12 proceed with the restitution hearing, we'll do it.

13 If Ms. Avila is requiring more time, we'll make
14 arrangements for extending the Court's jurisdiction for
15 purposes of the restitution matters.

16 Does that work?

17 MR. SPENCER: Yes, Your Honor. Paragraph 721st of --
18 -21 of Ms. Avila's report indicates that she's made some --
19 some determination on restitution. We have no objection to
20 that determination she's already made on some of the victims.

21 Paragraph 723, we agree the determination should be
22 made at a restitution hearing within 90 days of sentencing with
23 the Court. We have no objection to that.

24 THE COURT: All right. Mr. Hanna, if I set it 80 days
25 out, and then we re-evaluate at that point if we need more

1 time, will that work?

2 MR. HANNA: It works for the Government, Your Honor.

3 Just with respect to paragraph 721, it's the
4 Government's position that this is subject to change. This is
5 still fluid.

6 THE COURT: All right. And, we won't make the final
7 determination of restitution until we -- until we make it --

8 MR. HANNA: Okay.

9 THE COURT: -- which will be at the end of that.

10 All right. Ms. Avila, I'm going to set it 80 days
11 out, or --

12 Mr. Velez, when is 80 days out?

13 THE CLERK: That would be Monday, September the 25th,
14 Judge.

15 THE COURT: Is that the actual 80th day or did you
16 push me back?

17 THE CLERK: The 80th day is Saturday.

18 THE COURT: So that would be the 82nd day. All right.
19 So on the 82nd day, that's Monday.

20 THE CLERK: September 25th.

21 THE COURT: September 25th.

22 THE CLERK: At 9:00.

23 THE COURT: 9:00.

24 Mr. Spencer, does that work on your calendar?

25 MR. SPENCER: We'll make it work, Your Honor.

1 THE COURT: All right. Mr. Hanna?

2 MR. HANNA: We have no objection, Your Honor.

3 THE COURT: All right. Okay. That will be our
4 restitution hearing.

5 Let me see what else we might have.

6 All right. Ms. Avila, is there anything else I'm
7 missing on the disclosing of the report?

8 PROBATION OFFICER: No, Your Honor. Thank you.

9 THE COURT: All right. Mr. Spencer, anything else you
10 require of the Court at this point?

11 MR. SPENCER: No, Your Honor.

12 THE COURT: Mr. Hanna?

13 MR. HANNA: No, Your Honor. Only that we ask the
14 Court for permission to use the courtroom for a few minutes
15 afterwards before lunch. We would like to discuss some issues
16 with the families' next of kin.

17 THE COURT: Yes, sir. And so, it's your intention
18 then that we would begin right at 1:00 this afternoon with your
19 first victim impact statement?

20 MR. HANNA: Correct, Your Honor.

21 THE COURT: All right. So, I have no objection to you
22 using the courtroom after.

23 If you have nothing else?

24 MR. SPENCER: Your Honor, may we approach?

25 THE COURT: Yes, sir.

1 (Discussion at the bench.)

2 MR. SPENCER: I just want to make sure. I intend to
3 give an allocution. I don't have to do it now. I can do it
4 after the victim impact statements.

5 THE COURT: You can.

6 MR. SPENCER: Okay. I just wanted to make sure.

7 THE COURT: Okay. I read the Act, and it doesn't --
8 it doesn't bind you to any particular point, so...

9 MR. SPENCER: No. No. That's fine.

10 THE COURT: We can do it after --

11 MR. SPENCER: We can do it after victim impact is
12 fine.

13 MR. HANNA: Well, Judge, I think we had discussed
14 this. The normal progression is to do the PSR, Defendant
15 allocution, defense team allocution, the victim impact
16 statements --

17 THE COURT: Normally, I do victim impact statements
18 before I do the disclosure of the PSR.

19 MR. SPENCER: I have no objection.

20 THE COURT: There's -- you know, I read the Act last
21 night. There's no ascribed process so long as victims have a
22 reasonable opportunity to make a victim impact statement.

23 MR. HANNA: So we're going to do the allocution
24 post-victim impact statements?

25 MR. SPENCER: Yes.

1 MS. ACOSTA: We have victims listening --

2 (Unintelligible chatter amongst attorneys.)

3 THE COURT REPORTER: Excuse me. I can't hear.

4 MR. HANNA: The order doesn't read that way, Judge, is
5 the only issue.

6 THE COURT: The what?

7 MR. HANNA: Your Honor, order. Your scheduling order.

8 THE COURT: That's -- I thought you all had agreed on
9 that, but --

10 MS. ACOSTA: My understanding was that Defendant
11 allocution was going to be immediately after review of the PSR.
12 We have victims here.

13 (Lights briefly dim in the courtroom.)

14 THE CLERK: Judge, you're hitting the lights.

15 THE COURT: I am?

16 (Lights back to normal.)

17 MS. ACOSTA: And, I believe they're -- they're waiting
18 to hear from him. They're here.

19 THE COURT: Is he going to say anything?

20 MR. SPENCER: He's not going to say anything. He is
21 not. I'm going to give an allocution. He is not.

22 THE COURT: Okay. I'll let him do his allocution now
23 if he wants to say anything, and I'll let Mr. Spencer do it
24 after. How's that?

25 MR. HANNA: Well, the issue with that, Judge, is that

1 we have discussed the scheduling at length with the next of kin
2 and the victims, the CVRA folks. Some of them are not coming
3 for the entirety of the proceedings. Some of them came
4 specifically today to do a couple of things. One, to see the
5 Defendant. Two, to hear from him if he had anything to say,
6 and three, to hear from the defense team. Some of these folks
7 won't be here on Thursday or Friday.

8 THE COURT: Well, I'll let you say something now, and
9 I'll let you say something afterwards if you feel like you need
10 to say something afterwards. There is nothing written as to
11 what the process is. Everybody just has to have a reasonable
12 opportunity to address him. So if you want to say something
13 now, you can say a few things now. I'm going to ask you if
14 your client has anything to say or if he's got nothing to say
15 that's --

16 MR. SPENCER: Okay. He's not going to have -- we did
17 have this discussion. My preference was to do it after the
18 victim impacts. And, there was a discussion about, well, this
19 is the way that the Government would like for that to be done.
20 But so my preference is to do the victim impact post -- I'm
21 sorry, to do my allocution post-victim impact, but I'll do it
22 however the Court wants me to do it.

23 THE COURT: You can do it now and then you can -- if
24 you don't like what Mr. Hanna says, I'll give you an
25 opportunity to respond.

1 MR. SPENCER: Okay.

2 THE COURT: You know, there's no magic --

3 MR. SPENCER: Okay.

4 THE COURT: -- to this part.

5 MR. SPENCER: Okay. All right.

6 MR. HANNA: Well, Judge, I don't -- frankly, I don't
7 like the idea of us not having the last word on this, so you
8 know, the idea that they get a rebuttal to our allocution --

9 THE COURT: Well, I'll let him rebut, and then I'll
10 give you a little extra. How's that?

11 MR. HANNA: Why don't we just have him do it when he
12 wants to, which is after victim impact statements. It's not a
13 problem with us.

14 THE COURT: Well, we'll ask your client right -- I'll
15 ask your client right now. That way these people that are --
16 because here's the problem is that one of the news outlets said
17 that he was required to make a statement.

18 MR. SPENCER: Right. I know.

19 THE COURT: And, you know, they -- all these people --
20 you know, unfortunately we watch the news, and then we take
21 that as golden.

22 MR. SPENCER: Right.

23 THE COURT: So a lot of people probably think he's
24 required -- we're to hold a gun to his head until he says
25 something.

1 MR. SPENCER: Right.

2 THE COURT: So I'm just going to ask.

3 MR. SPENCER: Right.

4 THE COURT: Do you have anything to say? You can say
5 you reserve your statement, and then does he have anything to
6 say. You can just say no, he's not going to say anything.
7 That way the people that are expecting he's going to say
8 something will know he's not.

9 (Mr. Spencer and his team confer.)

10 MR. SPENCER: Yeah. We'll do it afterwards, Judge.

11 THE COURT: Do what?

12 MR. SPENCER: I'd rather do it after the victim
13 impact.

14 THE COURT: Yours?

15 MR. SPENCER: Yeah.

16 THE COURT: Okay. Just say you reserve, and then you
17 can tell me whatever you want to tell me about your client.

18 MR. SPENCER: Right.

19 THE COURT: Okay.

20 (End of bench conference; open court.)

21 THE COURT: All right. Before we go, Mr. Spencer, is
22 there anything you would like to address to the Court before we
23 proceed on with our sentencing hearing?

24 MR. SPENCER: Your Honor, I'll reserve my allocution
25 for later after the victim impact statements.

1 THE COURT: All right. And, Mr. Crusius, anything
2 that you would like to address to the Court before we proceed
3 with sentencing?

4 THE DEFENDANT: No, sir.

5 THE COURT: All right. Okay then. So we'll be back
6 at 1:00.

7 All right. And so, CSOs, the Government is to stay in
8 the courtroom with some of their victims, I understand, so
9 we'll let them use the courtroom for whatever they need.

10 We're adjourned until 1:00.

11 (Recess taken from 10:09 a.m. until 1:00 p.m.)

12 (Certified Court Interpreters Tess Saenz and Terence
13 McEneny present to interpret for audience members.)

14 THE COURT: Good afternoon, everyone. Please be
15 seated.

16 We're going to take a few minutes to let our IT
17 personnel reboot my computer. Get that going.

18 If I could have counsel at a sidebar, please.

19 (Discussion at the bench.)

20 THE COURT: So, I was concerned about the sketch
21 artist sketching the victims, so I don't know how you all feel
22 about that.

23 Here's -- I had Patrick do some quick research.

24 (Document handed to parties.)

25 THE COURT: So, it's up to you, Mr. Hanna.

1 MR. HANNA: So, I think the Government's objection of
2 -- suggestion on this, Judge, would be to allow the sketch
3 artist to sketch, but just not represent the facial features of
4 whoever is providing a victim [sic] under the CVRA, like a face
5 blank.

6 THE COURT: Oh. I got you. Okay.

7 MR. HANNA: I think that would be our suggestion.

8 THE COURT: All right.

9 MS. HUDSMITH: -- nice compromise.

10 THE COURT REPORTER: I can't hear. Speak into the
11 mic, please.

12 THE COURT: Yeah. She's --

13 MS. HUDSMITH: I said, that would be a nice
14 compromise. Rebecca Hudsmith.

15 MR. SPENCER: That was Rebecca Hudsmith, Suky.

16 THE COURT REPORTER: Thank you.

17 THE COURT: All right. So, then do I just call
18 Mr. Garcia over here and tell him don't sketch faces. Just --
19 everybody else he can sketch faces...

20 MR. HANNA: Yes.

21 THE COURT: All right.

22 Mr. Garcia, could you come on up to our little huddle
23 here, please.

24 (Sketch artist joins the group at the Court's bench.)

25 THE COURT: Mr. Valenzuela, can you give him your

1 copy.

2 (Document handed to sketch artist.)

3 THE COURT: So, over the break we did some quick
4 research on the sketching of the victims, and so the cases seem
5 to be that victims can be off limits. You can sketch
6 everything in the courtroom except the victim's face.

7 If you want to sketch their --

8 SKETCH ARTIST: The back?

9 THE COURT: The agreement is you can sketch the back
10 of the head.

11 SKETCH ARTIST: Okay.

12 THE COURT: Whatever. Just no facial features, so
13 they're not identifiable by anyone.

14 SKETCH ARTIST: Okay. I see.

15 THE COURT: Can you live with that?

16 SKETCH ARTIST: Yeah. Yeah.

17 THE COURT: Okay. If you want to hang on to that you
18 can.

19 SKETCH ARTIST: Okay.

20 THE COURT: Okay.

21 SKETCH ARTIST: Thank you.

22 (End of bench discussion; open court.)

23 THE COURT: All right. We are back from break.

24 Make your announcements again for this beginning
25 portion of our victim impact statements.

1 MR. HANNA: Good afternoon, Your Honor. Ian Hanna,
2 Greg McDonald, Mike Warbel, Patricia Acosta for the
3 United States. We're ready.

4 THE COURT: All right. Good afternoon.

5 MR. SPENCER: Good afternoon, Your Honor. Rebecca
6 Hudsmith, Mark Stevens, Felix Valenzuela, and Joe Spencer on
7 behalf of Patrick Crusius. We're ready, Your Honor.

8 PROBATION OFFICER: Good afternoon, Your Honor.
9 Jessica Avila, Senior United States Probation Officer.

10 THE COURT: Yes, ma'am.

11 Mr. Hanna, who will be your first speaker?

12 MR. HANNA: Your Honor, the United States would like
13 to invite Ms. Deborah Anchondo up to the witness stand.

14 (Ms. Anchondo approaches the lectern.)

15 MS. DEBORAH ANCHONDO: First off, you are not worth
16 words for my brother Andre Pablo Anchondo, nor my nephew Paul
17 Gilbert Anchondo.

18 Now, this letter is from my nephew Paul to his father
19 Andre Pablo Anchondo.

20 Dear Dad, the other day my Grandma Brenda asked me to
21 go get her glasses from her office. When I was in there, I saw
22 a picture that she has on her desk with you, Uncle Tito and
23 her.

24 For the first time I realized that I miss you very
25 much. I miss not having a father. I miss not having you.

1 I walked out of the office to give my Grandma her
2 glasses, and I felt so sad. While sobbing, I said to her, "I
3 miss my dad."

4 Through tears, I then asked Grandma, "Why can't I go
5 to heaven now and see my dad?"

6 And, she responded, "Because it's not your time."

7 Dad, I know that you told my Grandma Brenda before my
8 mom was pregnant with me how much you wanted to have a child of
9 your own. I know that when your birthday came after I was born
10 you said that I was the best present you could have ever
11 received.

12 Even though I was too little, 10 weeks old when I lost
13 you, know that I love you very much, Dad, and will always carry
14 you in my heart.

15 Grandpa Gilbert always made sure to let me know where
16 you and your mom are. At night he would carry me in his arms,
17 take me outside, and point at the stars letting me know that
18 you and mom were up there.

19 I know that you're in heaven watching over me, and one
20 day I will get to see you and mom again. I love you very much
21 for wanting me. Love always, your son Pauly G.

22 MR. HANNA: Thank you.

23 Your Honor, for the record, Ms. Anchondo is the sister
24 of Andre Anchondo and the sister-in-law of Jordan Anchondo and
25 the aunt of P.J. -- P.G.A.

1 THE COURT: All right. Thank you, Mr. Hanna.

2 Your next speaker?

3 MR. HANNA: Your Honor, next the United States would
4 like to invite Mr. Gilberto Tito Anchondo.

5 (Mr. Anchondo approaches the lectern.)

6 MR. GILBERTO TITO ANCHONDO: For my statement I wrote
7 a letter to my brother.

8 Dear Andre, it has been very difficult these last few
9 years without you being here. The immense pain of your loss
10 caused so much sadness in our father's heart, so much so he
11 also had to follow you to wherever you are -- you and Jordan
12 are now.

13 With our father gone as well, all the responsibilities
14 have been thrust upon me, and I've learned to accept them with
15 honor.

16 A lot of people ask me how I'm doing, and I can never
17 put it into words how much we all miss you.

18 Your little boy is growing up faster than we can keep
19 up with him, and he reminds us daily of how you were. Just the
20 things that he does.

21 He misses you a great deal and even tells me when we
22 look up at the sky because he knows you are up there watching
23 over us. He is so much like you. I wish you were here to see
24 this.

25 I really don't know what to write for the statement

1 for your killer's trial, and many thoughts have run through my
2 head. Am I supposed to be sad? Am I supposed to be scared and
3 nervous to see your killer? Am I supposed to be angry? Am I
4 supposed to be vengeful and wanting him to die a horrible death
5 like yours?

6 Looking at everything now, it's so much like a dream.
7 I can't believe you're gone, and a part of me wants the most
8 extreme justice for what happened to you. That was until I
9 remembered what our father would say after you left this earth.
10 Our father had said, "I forgive him, but I don't forgive the
11 devil inside him."

12 This response was met with mixed reactions as others
13 want an eye for an eye, but I've come terms with why he would
14 say this every time he was asked about the killer.

15 Life is too short to hold grudges, and it will eat at
16 your soul if you let the pain and emotions take over.

17 My father used to say that the show goes on, referring
18 to The Flying Wallendas family. That family must walk on a
19 tightrope and if a son or father falls to their death, the
20 family has to go back on that tightrope to perform for the
21 world.

22 This is what life is. We try to balance everything in
23 our life, and it feels as though we are walking on a tightrope
24 with a couple of tons on our back. But getting to the other
25 side gives us accomplishment and pride. I've come to realize

1 that you and our father's loss was an opportunity that God has
2 given me to mature and become more responsible. It's very
3 ironic that you and our father's death has made me a stronger
4 individual. It has made me a better person. Yes, the pain and
5 sadness will be in our heart forever, but so will the love I
6 had for both of you, and that love must be passed down to your
7 son.

8 I can't live in this world with anger and resentment
9 because that is not what your son needs to learn. He will
10 learn to be greater than any of us ever were.

11 A very special person came to me with a blessing of a
12 paragraph which when I read it, it seemed as if God himself had
13 hand-delivered these words to be able to be heard by everyone
14 today, but to be heard especially by your killer. It puts into
15 words what my father thought, and who he was and what I've come
16 to realize, and I'll read it now.

17 It is entitled *My Beloved Enemy*. *My Beloved Enemy*. A
18 word to my enemies. You are not really my enemies at all. In
19 reality, you are some of the best friends I have. You who have
20 lied about me and about this ministry, who have tried to
21 destroy people's faith and confidence in me, who have spread
22 false and damaging rumors about my life and teachings. Through
23 the efforts, there has been a work of grace wrought in this
24 heart of mine that can never have happened without you.

25 My friends have been many, loyal and faithful to stand

1 with me in many hours of trial and need. They have been my
2 strength to my weaknesses, added joy to my heart in time of
3 sorrow, and have girded up my faith amidst raging doubts. They
4 have brought me before the throne of grace innumerable times in
5 their seasons of prayer. I could not have continued long in
6 the spiritual conflict without these wonderful friends. But
7 believe me, I speak in sincerity and truth. There can be no
8 perfection in the life of God's elect without the chastising
9 work of a real enemy.

10 For when a bitter, vicious person begins to do all he
11 can to destroy, destroy me and my work for God, then there is a
12 work done that brings out all the wrong and evil attitudes and
13 spirits that lie hidden and deeply routed in my heart.

14 When a friend extols all my good virtues and praises
15 me from the heart -- from their heart of true friendship, I
16 feel nothing but love for them. But when I hear of an enemy
17 who has unjustly brought shame upon me, there rises a spirit of
18 defending myself, and a spirit of righteous indignation to
19 refute the enemy.

20 It is in that precious Holy Spirit -- it is in that
21 the precious Holy Spirit does his office work and reveals to me
22 the wrongness of my own spirit. I see in me then, the things I
23 did not know were there before. With repenting and sorrow of
24 heart I cry to God, and he delivers me from that which I have
25 seen in my life. It was hidden, lying dormant until you, my

1 beloved enemy, brought it to light with your crucifying
2 process. The prophets of old would never have had the glory of
3 being stoned for the world -- for the Word of God, and now --
4 and no martyr's crowns could have ever been won by early
5 Christians without real enemies.

6 You see, I cannot crucify myself, and friends will not
7 do it. So, it takes you, my enemy, to bring me to the cross.
8 And, to the cross I must come, if I ever am to come to the
9 glory of perfection. But I have much progress yet to make
10 before coming to the image of my lovely Jesus. There's so much
11 I must learn, and my enemy, you're teaching me.

12 I have learned that the road to glory is by the way of
13 the cross. Without you I would not have found the way.
14 Someone had to crucify my Jesus. Not his friends, not his
15 disciples, and He cannot do it himself. So Satan and the
16 princes of the world stirred up hatred in the hearts of his
17 enemies, and the work was done. Had they known that they were
18 bringing him into his glory, and bringing about salvation of
19 lost mankind, they wouldn't have done it.

20 And, I'm sure that if you knew the good your efforts
21 are working out in my life, you would not have wanted to help
22 me so much, but the work is being done, and I have learned to
23 love you because of it. "Love thy enemies," he said. And, I
24 wondered how I could do it? But you've taught me. For because
25 of you I have grown in God, increased in his grace and partaken

1 of his divine nature. Also, because of you, many have been
2 turned away and refused to hear truths imparted unto this
3 vessel. Their ears have been filled with lies and no doubt
4 have thought that no good thing could possibly come from such a
5 one. But, even here I've seen the hand of God. For those who
6 have had ears to hear the voice of the spirit have not believed
7 the lies you have told them, and they have opened their hearts
8 to the message for these last days. Thus, God has weeded out
9 the chaff from the wheat, and is in the process of separating
10 his own unto himself.

11 All things are working together. So, my friends, for
12 in reality, I have no enemies in flesh and blood. Your work
13 has been sharp and cutting, and many times I was hurt and
14 wounded deeply, but out of these trying experiences I have come
15 forth a better Christian, person, and further on my way to
16 becoming an overcomer.

17 I doubt that you will receive any rewards for your
18 lies and efforts to destroy us for "Woe unto them through whom
19 these offenses come." But I want you to know that you -- that
20 though your loss may be great on the day of judgment, I love
21 you, and I appreciate the ministry you have had in perfecting
22 this life of mine.

23 Andre and Jordan, and all the victims, you will be
24 missed, but not forgotten. Love, your brother, Tito Anchondo.

25 MR. HANNA: Your Honor, for the record, Mr. Anchondo

1 is the brother of Andre Anchondo, brother-in-law to Jordan
2 Anchondo and uncle to P.G.A.

3 THE COURT: Thank you, Mr. Hanna.

4 MR. McDONALD: Your Honor, the United States would
5 like to invite Raul Loya to provide his victim impact
6 statement.

7 (Mr. Loya approaches the lectern.)

8 MR. RAUL LOYA: I didn't know how I was going to wake
9 up today as far as what I was going to say. I've been thinking
10 about what to say for four years already.

11 As far as -- my life has been very detrimental. I've
12 had diseases that have come across myself. It's been hard to
13 recover from what you've done.

14 I've been trying to every day battle the demons that I
15 have as far as to get over this, and I've tried so bad to try
16 to forgive what you've done. It's -- it's been difficult.
17 And, I do hope that one day that God does find the heart to
18 forgive you for what you've done, because I have a goal in
19 life. I want to be able to see my folks in the next life, and
20 I just really hope -- I'm sorry.

21 MR. McDONALD: Take all the time you need.

22 MR. RAUL LOYA: I'm just hoping that one day I get to
23 where I need to be. I hope, I really do hope that you really
24 think about what you've done, and -- because every day I have
25 to watch them be killed on a daily basis in my mind, and that's

1 something that it's never going to go away. So, I hope, I hope
2 you really think about what you've done. I really do. Thank
3 you.

4 MR. McDONALD: Your Honor, for the record, Raul Loya
5 is the brother of Maribel Loya, deceased, named in Counts 15
6 and 38, and the brother-in-law of Leonardo Campos also deceased
7 named in Counts 5 and 28.

8 THE COURT: All right. Thank you, Mr. McDonald.

9 Mr. Hanna?

10 MR. HANNA: Thank you, Your Honor.

11 Your Honor, at this time the United States would like
12 to read into the record the victim impact statement from
13 Mr. Alfredo Hernandez. His sister was Maribel Loya and his
14 brother-in-law was Mr. Leonardo Campos.

15 THE COURT: Yes, sir.

16 MR. HANNA: I'm writing these words in hopes that they
17 resonate in your mind for the rest of your life. I want them
18 to haunt you, give you sleepless nights, wake you in cold
19 sweats when you do finally sleep, and never forget the very
20 people you so much hated, to live within you to make you squirm
21 day in and day out.

22 My sister Maribel Loya Hernandez and my brother-in-law
23 Leonardo Campos were happy people who bothered no one. They
24 were productive law-abiding citizens who minded their own
25 business, were not prejudiced against anyone based on race,

1 religion, status, gender or any other label.

2 They happen to wake up early one day, take their dog
3 to the groomer and buy what pleased them until a fucking
4 monster decided to take their life.

5 And, for what? I have many unanswered questions.
6 Only you Patrick Crufuckingsius can answer. But I doubt you
7 will ever be man enough to be honest about your racist ideology
8 passed down to you from your parents, grandparents and other
9 stupid family members.

10 Let me tell you what you have taken away from me. My
11 sister Maribel Loya Hernandez and brother-in-law Leonardo
12 Campos. Thus far, they haven't been with us for year-round
13 celebrations that were special to us. We enjoyed movies,
14 birthdays, Christmases, Thanksgivings, vacations and more.

15 Now what do I have? Sadness in my heart where I
16 cannot celebrate any holiday how I used to with my sister and
17 brother-in-law, Maribel Loya Hernandez and Leonardo Campos.
18 They have no life anymore, but you do.

19 Why didn't you just do the dirty deed to yourself and
20 kill yourself instead of innocent people?

21 You are a coward hiding behind the law. Making deals
22 so you don't get the death penalty, so you can keep breathing,
23 living, keeping contact with your family. You don't deserve to
24 live. Your parents don't deserve to be able to communicate
25 with you. Your grandparents don't deserve to be able to

1 communicate with you. Your family doesn't deserve to be able
2 to communicate with you. I cannot communicate with my sister
3 and brother-in-law, Maribel Loya Hernandez and Leonardo Campos.
4 So, what makes the Crufuckingsius family so entitled to have
5 you living?

6 You, demonic monster, have also taken away my security
7 and freedom. I still cannot go into public places without
8 surveying the area, looking for a possible place to hide and be
9 safe from psychos like you.

10 I cannot freely peruse through any establishment the
11 way my sister and brother-in-law, Maribel Loya Hernandez and
12 Leonardo Campos, thought they could do until your stupid ass
13 shot them in cold blood.

14 I constantly look over my shoulder thinking some bigot
15 is lurking with a weapon ready to take my life as you did to 23
16 others at Walmart.

17 I'm not a hateful person, but you've taught me how to
18 hate you and your family for standing behind you. I hate you
19 killed my sister and brother-in-law, Maribel Loya Hernandez and
20 Leonardo Campos. I hate you for lying from the beginning
21 stating that you were innocent after promising under oath that
22 you would tell the truth. I hate your parents for having
23 brought you into this world to cause pain and suffering. I
24 hate your name because it's a horrible memory of your act of
25 racism and bigotry. I hate that you are alive, breathing,

1 eating, sleeping, shitting, and possibly laughing about your
2 ungodly deed. I've seen the smirks on your face. You piece of
3 shit.

4 I will never be able to put this atrocity behind me,
5 not even if you were put to death, but it sure would make it a
6 bit better knowing you would be six feet under also.

7 My wish for you is that you remember what you hated
8 most, Americans of Hispanic descent. My sister and
9 brother-in-law, Maribel Loya Hernandez and Leonardo Campos,
10 were proud Hispanics. When you are rotting in a cell looking
11 over your shoulder surrounded by other Hispanics, you will see
12 their faces reminding you that you are a vicious killer who now
13 is a pussy wishing you were dead.

14 Dream about them when you can, see them in your
15 daydreams, see them when you are eating, see them when you try
16 to relax, see them 24/7.

17 I wish you all the sadness in the world. I wish your
18 family all the sadness in the world. I wish you feel sick to
19 your stomach day in and day out. I wish you get your ass beat
20 every day behind bars, and I wish you go to hell and rot like a
21 little bitch.

22 THE COURT: Your next speaker, Mr. McDonald.

23 MR. HANNA: Your Honor, the United States would invite
24 Stephanie Melendez to share her victim impact statement.

25 (Ms. Melendez approaches the lectern.)

1 MS. STEPHANIE MELENDEZ: I've struggled. I didn't
2 know what I wanted to say or how to say it. There's just so
3 many words and so many emotions. How can I possibly put into
4 words what my family has been through, what I have been through
5 and what my child has been through.

6 The last four years in my anger and pain there have
7 been things I've wanted to say and to scream, and now that I
8 have my chance, I'm struggling. How do I say the things that
9 need to be said?

10 That morning I was working, counting down the time
11 until I could go home and enjoy my Saturday. Calling my child
12 on break, that one single moment changed me.

13 Hearing my baby screaming in the background, that will
14 always haunt me. And, then hearing that my dad was shot, that
15 was shattering. Suddenly it was like nothing was real.
16 Everything ripped away within minutes, and my reality no longer
17 existed.

18 He was always my rock and my strength, and you took
19 him from me and from my girls, from my sisters, and from my
20 mom. In your act of hatred you took a good man from this
21 world. You stole my daughter's safety, and you changed my life
22 forever.

23 Most of the time I feel helpless, and I feel like I
24 failed as a mother. When she was still so tiny and in my arms,
25 I would promise her safety, protection. I promised my daughter

1 the beauty of this world. You ripped that away from her. You
2 showed her evil. You showed her monsters do exist outside of
3 storybooks.

4 How am I supposed to help a child who saw her
5 grandfather murdered, who had to survive that horror? Who
6 tells me that if it gets too quiet, all she can hear are the
7 screams. My dad made sure she came home to me that day, but
8 she was changed.

9 Gone was the innocence of a 9-year-old. She grew up
10 way too fast, and saw too much, and lost too much.

11 I was asked many times if I would ever begin to
12 forgive you. As of today, no.

13 So long as I see my child struggle, and for every time
14 I see my dad's empty seat, for every picture and for every
15 memory he is not in. It's renewed pain, anger, a sadness that
16 I can never explain. But today I'm here, and I try to put into
17 words the devastation that has been caused, and I can't even
18 fathom how to begin to forgive.

19 You may not care about me or my words, but I want you
20 to remember these next few things. I want you to remember his
21 name, David Johnson. He was a son, brother, father,
22 grandfather. He was a friend. He was a hard worker. He was
23 loving and caring. He loved to cook. He loved watching golf,
24 football, NASCAR. He loved playing with his grandkids and
25 getting on the floor with them to build up Lincoln Logs or even

1 Barbies. He then let them put barrettes in his hair.

2 When he left this world, a magnificent man was stolen
3 from so many lives.

4 I want you to remember the cries of my daughter. I
5 want them to haunt your days and your nights as you haunt hers.

6 You came to us because of hate, but I won't let that
7 touch her. She will rise. She will be the voice that got
8 killed the day. She will be the voice of her Papa. His legacy
9 will live on through her.

10 I want you to remember my voice. I speak for all
11 those daughters that lost their fathers, for all those mothers
12 who lost their children, and for all those that have been
13 touched by hate and violence.

14 I wasn't sure if I was strong enough to get up here
15 and speak, but I will for them, for all those who couldn't.
16 Your hate has no place within us. You didn't win.

17 I may not forgive, but I will move forward. I will
18 raise my daughters and show them that while real monsters do
19 exist, the world is still theirs, and there is still beauty
20 within it. I will keep my promises to them. They will be
21 protected. They will grow to live their lives, that they have
22 beautiful souls and will not spread more hate. Your name is
23 never spoken in our house, nor will it ever be.

24 You have taken enough from us. You have shattered our
25 lives, but I was raised by the very man you stole from us, and

1 he taught me to never give up, and to never back down, and to
2 continue pushing forward, and that is exactly what I plan on
3 doing. He will be remembered, but you will not.

4 MR. McDONALD: Your Honor, for the record,
5 Ms. Melendez's victim impact statement is on behalf of David
6 Johnson who is reflected in Counts 12 and 35.

7 THE COURT: Yes, sir.

8 MS. ACOSTA: The Government next invites Mr. Raymond
9 Attaguile to make his statement, and for the record,
10 Mr. Attaguile is a relative to David Johnson.

11 (Mr. Attaguile approaches the lectern.)

12 MR. RAYMOND ATTAGUILE: On August 3rd, 2019, a coward
13 from Allen, Texas, drove 10 hours to kill Latinos, Hispanics,
14 something that he looks like.

15 You look Hispanic. You look Mexican, but did you not
16 like it? Did you not like what you saw in the mirror, that you
17 were looking more like a Hispanic every day? That day your
18 hair was all greasy. When they pulled you out of the car, you
19 looked like a Hispanic, a Mexican.

20 While we were at a baseball tournament, we got the
21 call that my sister, my granddaughter -- his granddaughter and
22 her husband David Johnson were at a Walmart shopping for school
23 supplies for their granddaughter. And, they let us know that
24 there was an active shooter, and David Johnson was shot
25 multiple times protecting his granddaughter and his wife. But

1 you missed.

2 You hit the whitest man in El Paso, NASCAR-loving,
3 bass fishing, golf-loving, Dallas Cowboy-loving person/man in
4 El Paso. You missed. You hit the White man that you were not
5 able to see in the mirror.

6 You destroyed numerous lives especially my sister,
7 driving her into a downward depression, wanting to go be with
8 her husband on many occasions.

9 You can roll your eyes if you want to. It doesn't
10 bother me because that man loved everybody. He'd love you,
11 too.

12 But, my sister quickly realized her protector,
13 guardian and her right-hand had been permanently severed by
14 you.

15 That day of the shooting, I was with my sister. I ran
16 to her as fast as I could. While everybody was waiting for
17 their loved ones to get notice that their loved ones were
18 either hurt, in the hospital, or had passed away, my sister had
19 already told me within an hour that David was already gone.
20 She knew it because she was there filled with his blood. My
21 great -- my grandniece was filled with his blood. And, she
22 said, "I know he's gone. I already know it."

23 I said, "You never know. You never know. You know,
24 let's just think positive."

25 She goes, "No, my hand was in his blood all over me."

1 Where she even said, "They stopped me. They wanted to know if
2 I was shot," because she was full of blood. Yes, her knees
3 were torn up from being thrust to the ground and scared
4 shitless because of my -- her granddaughter wanted to know if
5 she was hit by shrapnel because she was full of blood, too.

6 And, now she's wondering how she's going to survive
7 without her husband of over 30 years.

8 Seeing her fade away into the darkness really scared
9 all of her family, constantly telling her what my 15-year-old
10 taught me that day at the baseball tournament.

11 After the directors asked us if we wanted to cancel
12 the tournament, my son said, "If we let this coward control our
13 lives, then he wins. But my Uncle David would not want us to
14 let this coward control the outcome of the tournament or our
15 lives."

16 My son Zeus having to think of that at such a young
17 age.

18 Like my niece said, "You let them know that there's
19 monsters outside of our house." The books that they read with
20 the scary monsters under the bed.

21 My daughter honks for me every night when she gets
22 home from work, 17 years old, for me to go out there and get
23 her or her brothers because some coward is going to try to do
24 that to them.

25 So, at the tournament my son told the players, "We

1 must dig deep inside and outman the person who is trying to
2 control our lives. Let's continue this tournament."

3 So, they all took the field and prayed, even a couple
4 of kids inside the huddle said, "Zeus, why do you want to
5 play?" Because the next day they knew his uncle was shot.

6 "Go be with your aunt. Go be with your family."

7 And, once again, Zeus told them, "We can't let this
8 coward run our lives. This is exactly what he wants us to do.
9 Stop. Quit," but he said, "Whatever you guys do, don't mention
10 his name. It's not worth it. He's not worth it."

11 All the baseball teams prayed for a man they never
12 met, David Johnson. Well, a couple of them did, and they never
13 met him.

14 My sister is fighting these demons on a daily basis,
15 and it is overcoming this change in her life, her family, but
16 through her family, God and prayer, she is slowly taking back
17 what this weakling caused her, her family, our family.

18 I don't know what kind of parents you have. I don't
19 know what kind of people they are that raised you to be this
20 kind of person. Maybe you weren't White like them. Maybe you
21 looked too Mexican, maybe some kids teased you at school. I
22 got teased at school. But the apple doesn't fall far from the
23 tree.

24 My wife, my older two kids said, "Don't tell him
25 anything about his parents. That's cruel."

1 I said, "Son, we raised you. They raised him."

2 So, yes, shame on your parents for raising this kind
3 of a coward.

4 Like the other family said, "Why didn't you just take
5 your own life?" You're going to die in jail.

6 So, my oldest son said, "Dad, you know, God has a plan
7 for him. It's a horrible plan, but it's making us love each
8 other more."

9 So you thought you were succeeding; you failed.

10 Shame on your parents for this coward of a man, for
11 not having the brains to disarm him when they had the chance.
12 They know a manchild did not have the capability of owning such
13 a weapon, knowing how to handle it. They called the police,
14 yet nobody did anything.

15 If your parents would have made more of an effort to
16 disarm you because you didn't have the brain capacity to own an
17 assault weapon, which it would have diverted this senseless,
18 senseless crime, they, too, are responsible for your actions.
19 Your parents, grandparents, and I don't know who did something
20 wrong to you that you had to do this.

21 On me, the other hand, if you had shot me, you would
22 have also ruined the lives of nine Hispanic children and a
23 Hispanic wife. Sometimes I even get mad at my son because he
24 has a little truck and they fly flags. He flies the Mexican
25 flag and the American flag. I tell him, "You're not Mexican.

1 Take off that Mexican flag." But he said, "That's part of my
2 history, Dad."

3 So, today as I go back and apologize to him once I
4 have to eat his words again it's, We're not going to let you
5 win.

6 So, on one of our trips, we drove near Allen, Texas,
7 and I saw plenty of Mexicans there. I saw plenty of Hispanics
8 there. Were you too afraid to do it near mommy and daddy?
9 Your grandparents? Maybe they might have been at that Walmart
10 or small shopping center there, and you might have hit them by
11 accident? There's a lot of cities near you that have a lot of
12 Mexicans and Hispanics.

13 It's really sad that you had to drive here to destroy
14 lives. Roll your eyes if you want to. It doesn't hurt. I'm a
15 dad of four teenagers that roll their eyes at me every day,
16 five times a day.

17 My kids all want to forgive you for what you've done,
18 my wife, and I forgive you, but I can't forgive what you did to
19 my daughter, my sister, and grandniece, all these innocent
20 children that you did this to with your bad aim because you
21 missed at least five times. You missed Hispanics. You missed
22 Mexicans, and you hit the White people you were afraid you're
23 not or don't look it.

24 So, God bless you, hope you find God, but a lot of
25 people I know that leave prison, they find Jesus and God in

1 prison, but when they get out, they leave him there. You're
2 not going to get to leave him there. You're going to stay
3 there with him, not for long, but you'll be there. I feel
4 sorry for you. Such a shame you didn't take your own life.
5 I'm sorry for you.

6 MS. ACOSTA: The Government invites Kathleen Johnson.

7 (Ms. Johnson approaches the witness stand.)

8 MS. KATHLEEN JOHNSON: On August 3rd, 2019, my husband
9 David Johnson, my granddaughter and I were in aisle number 3 at
10 Walmart where you shot and killed my husband. He -- he was
11 shot at close range by a coward, and there was his innocent
12 blood everywhere.

13 He was our provider and our protector. We are
14 devastated and forever traumatized by this horrific loss.

15 Since that day, I have severe emotional and mental
16 anguish. I suffer from anxiety, and I'm stressed and
17 depressed.

18 It is hard for me to put into words the pain I am
19 dealing with as my husband is no longer here. He was a strong
20 man. He was a strong, loving husband, father and grandfather,
21 and his life was cut way too short.

22 I have had countless hours of counseling and therapy
23 to deal with my night terrors, my PTSD, and grief. This
24 tragedy has shattered me in every single unimaginable way,
25 financially, mentally, physically and emotionally.

1 I don't know when I will be the same and if it is
2 possible. I never -- or I never will be. I have to remind
3 myself every day that I am safe from this killer harming me
4 again.

5 There are days when I can't even get out of bed. I'm
6 in a deep depressive state most days. I struggle with my
7 uncontrollable fits of anger, sorrow, anxiety and the fear of
8 being alone.

9 Our lives have changed and for the worst. The pain
10 you have -- the pain you have caused is indescribable. It is
11 unfair, but I want you to know that you cannot take away the
12 memories of David Johnson and the light and joy he brought to
13 his family.

14 Considering the violent nature of this crime, I hope
15 the judge sentences this killer to the maximum penalty allowed
16 by law.

17 I don't even want to look at you.

18 MR. HANNA: Your Honor, for the next speaker, with the
19 Court's permission, we would like to invite the canine up to
20 the witness box, please.

21 THE COURT: Yes, sir.

22 (The canine and handler approach the lectern.)

23 MR. HANNA: The Government is inviting Miss K.M.

24 (Miss K.M. approaches the lectern.)

25 MISS K.M.: I don't know where to start this. There

1 is simply too much for me to explain that will take me hours,
2 which is insanely sad for a 13-year-old to say.

3 Other kids my age worry about social media, school
4 drama, school, boyfriend/girlfriend things. I have to worry
5 every day, everywhere I go somewhere that someone will decide
6 if they are in a bad mood and shoot innocent people who did
7 nothing.

8 If I see a backpack, I start to panic. If I see
9 military boots, I will worry. You know how messed up that is?
10 Of course, you don't.

11 You and your messed up sick horrible brain don't know
12 the difference between messed up and right because you think
13 shooting up a random store on a Sunday -- on a Saturday morning
14 is fine.

15 I mean, you know how pathetic that is, that someone
16 who has an entire life ahead of them is like, oh, well, I feel
17 like I should shoot these innocent random people because I feel
18 like it, and I can. Well, no you can't because I really hope
19 that you get what you deserve.

20 I remember my grandfather saying he felt off. We just
21 thought it was he woke up in a strange way, and then we saw him
22 running and then shots were fired and before -- before --
23 before I knew it, we saw one of my closest family members die.

24 A nine-year-old who's supposed to be playing dress up
25 with dolls and running around happily. Instead, I got bad

1 grades, panic attacks.

2 I used to think that it was a dream. That I was just
3 dreaming. It took me two years to accept my grandfather was
4 gone. I used to dream that he lived off, you know, just hiding
5 off. But he wasn't. He was brutally shot because people --
6 you find people with darker pigments to be monsters.

7 Sure. My grandfather wasn't tan, but those people who
8 were, they had lives. They were people. You were the monster.

9 And, you can roll your eyes, you can smile, you can
10 smirk; be my guest because I really hope that you fully come to
11 accept that sure, I have dealt with bullies, but you are much,
12 much worse than that.

13 Not all people of different races are monsters. I
14 hope one day you feel what I have to feel every day. The
15 sleepless nights, the worries of everywhere you go, never being
16 able to look at stores the same.

17 I don't know how many times I have to say this.
18 You're not a monster. You're a devil, and you proved to a
19 nine-year-old child that people can be wicked. You're worse
20 than the villains in the movies we watch.

21 You took away my childhood. I walked out to see mass
22 puddles of blood. I wasn't fazed. I didn't cry until I fully
23 understood what happened, that I had seen people dead on the
24 ground. There was a man who got -- who was shot on the finger.
25 That's what I -- that's when I truly felt fear.

1 I thought about those drills we did at school, and I
2 thought to myself, I thought, oh, those drills are only for
3 school, but they weren't. I went home that night, and I just
4 remember laying awake for hours.

5 When school started, I didn't know how to react with
6 people. I went from the girl that loved walking into people
7 and meeting new people to the girl who hated everyone. I
8 didn't admit to it. It's not like I -- it's not like I was
9 used to it.

10 The Bible says forgiveness is key especially with the
11 ones you hate, but I shall never, nor I shall not -- nor never
12 forgive you. I wish you could see what I see.

13 Everyone that I do not know is a threat. A backpack
14 is worse. Almost everyone and everything is just a horrible,
15 horrible threat.

16 I lost all my friends, but I made new ones.

17 If you have those who are trying to give you some
18 mercy, I hope you have none. I hope your family who is on your
19 side, I hope they don't give you any mercy. I hope they don't
20 get any mercy.

21 I hope you feel -- oh, oops. I hope you feel my
22 anxiety every day. Those who believe you did no wrong are no
23 better than you.

24 My faith in humanity is little to none. Everything I
25 believed almost faded as I was hiding, as I saw and heard

1 gunshots fly everywhere. I remember it so vividly from the
2 ground -- from the time my grandfather died to the bag of candy
3 I was clinging onto.

4 We were supposed to see a movie after. In fact, I
5 chose to go to the store because I wanted candy. I regret and
6 I still blame myself for choosing that, but I still tell myself
7 it wasn't my fault. It wasn't the universe's plan. It wasn't
8 a plan from a higher source. No. It was some messed up
9 person's plan and some messed up mentality of a person.

10 I don't care who hurt you in the past. One promise I
11 shall keep forever is the fact that I shall never let myself
12 fall into that deep black void that causes hatred and harm.

13 But I do thank you. Not for the anxiety or the
14 sleepless nights, but for being able to have the creativity
15 that I can create worlds and planets in my mind as a coping
16 mechanism.

17 I learned almost every media of art from oil paint to
18 pastels. I moved schools, which I met one of my best friends.
19 Sure I lost my best friend of eight years because of my
20 anxiety, and that he couldn't cope with something that wasn't
21 my fault. That's his loss. And, it was the very same event
22 that caused me to see how absolutely horrible and awful people
23 can be.

24 So I thank you for making me see how to use my
25 creativity and make up my own worlds, ability to sense and feel

1 emotions behind other people.

2 So, even if you think you passed in ruining my life,
3 this event told me that I shouldn't be scared of the water. I
4 had worse things to be worried about. I shouldn't be terrified
5 of high rides and heights anymore. I shouldn't be friends with
6 people who don't care. So thank you, but I will never forgive
7 you. You deserve that punishment that will make up for a crime
8 that big.

9 Going back to my grandfather, every morning I would
10 stay with them -- well, every time I spent the night with them,
11 we would make waffles and watch car races, then we would do
12 something. I -- I will miss that. I was never really close
13 with my grandma as I am now, but I will say my grandfather was
14 the -- one of the closest family members I had. I cared a lot
15 for him, but you took away -- you took that away, a child's
16 life and happiness.

17 You should truly live through what I have to deal with
18 every day. It isn't fair that I have to live through this,
19 having to leave loud places and such, and sometimes I laugh
20 about it thinking how messed up it is for someone to do
21 something like that. Clearly a lot.

22 I don't know how badly your childhood was. It was
23 screwed up, but God, I wonder if you ever had any close family
24 member what would they think if you just -- if you had any
25 family member that you actually cared for, what if you had --

1 what if you cared for someone, and someone just so randomly
2 decided to shoot them. Like, that's what I think.

3 But I -- I have to live with this. I have to learn
4 how to deal with this brutal, wicked world filled with
5 ugly-minded people like yourself. You should pay for what you
6 have done, taking away everything from me, but I want you to
7 think that you may have taken away everything I lost from my
8 childhood, I think you failed because I'm no longer scared of
9 the life ahead me or the world I live in. In fact, it makes me
10 think that I should be a better person than you ever were
11 because no one -- no one should think how you do.

12 So, thank you for giving me much more than you took
13 because with the bad, comes the good, and the good is much,
14 much better than what you could ever have.

15 I am Kaitlyn Rose -- Melendez. My grandfather gave me
16 my middle name because he always called me precious and now, I
17 will never hear those words the same. I am a survivor of
18 someone's messed up actions that I will never forgive them for.

19 MR. HANNA: Your Honor, for the record, Miss K.M. is
20 granddaughter to David Johnson. She was at the Walmart on
21 August 3rd, 2019.

22 THE COURT: All right. Thank you, Mr. Hanna.

23 We've been at it an hour. I don't know if you want to
24 take a break now or if you want to continue on.

25 MR. HANNA: Your Honor, if we could do one more and

1 then take a break, please.

2 THE COURT: Yes, sir.

3 MR. HANNA: Your Honor, at this time the Government
4 would like to invite Mr. Tomas Hoffmann to speak.

5 (Mr. Hoffmann approaches the lectern.)

6 MR. TOMAS HOFFMANN: First of all, my family and I
7 want to give our most sincere condolences to all the families
8 who are suffering just like us because of this (pointing)
9 unemotional monster.

10 You didn't even feel sorry for a poor baby who was in
11 his mother's arms. On the contrary, you wanted to kill him
12 along with his mother and father. But guess what? God and his
13 parents protected that baby.

14 On August 3rd, 2019, me and my family were eating
15 breakfast. We turned on the TV news and saw the tragedy. When
16 the picture of a man lying on the floor full of blood showed on
17 TV, I immediately told my mom, "Hey, that looks kind of like my
18 father because he dresses the same."

19 We were extremely angry and sad at the same time for
20 this crime of hate.

21 We never realized that man was my father because my
22 father was supposed to travel to Germany. I even brought his
23 plane ticket right here.

24 (Mr. Hoffmann holding up a plane ticket.)

25 In the morning of Sunday, August 4th, we received a

1 call from the Mexican consulate telling us that they had found
2 my father's driver's license, and I asked where it was found.
3 They told me that he left it at Walmart, and then that's when I
4 was starting to get worried, but I was calm because I thought
5 he had only forgotten it there. They asked me if they could
6 speak to my mother and I said sure.

7 Then I saw my mother started to cry because they told
8 her that my father was probably one of the victims of the mass
9 shooting, but they weren't sure if he was injured, and they
10 needed us to get there.

11 I left my house in a hurry because I thought that my
12 father was one of the injured and he needed help.

13 When I got to the building where the meeting with all
14 the families took place that's when they told me that my father
15 had died.

16 I was in shock and in denial and kept telling them
17 that couldn't be possible because my father was supposed to
18 travel to Germany.

19 Because you killed my father in such a cowardly way --
20 before you killed my father in such a cowardly way, we were a
21 small but very happy family. My father, my mother, my brother
22 and I used to spend time together. Every weekend we went out
23 to eat, sometimes to the movies. We were a very traditional
24 and loving family.

25 My mother is the most affected of the family because

1 my father was a big support for her. He helped her with every
2 house need, house repair, and they lived together for more than
3 40 years.

4 Here's a picture of them.

5 (Mr. Hoffmann holding up a picture.)

6 You need to see it. You can see it.

7 (Defendant motioning with his head.)

8 Here's a picture of us, the whole family. We were
9 happy together.

10 I don't know why you don't want to see it. Or -- I
11 don't care anyways.

12 My father used to cross the bridge to buy tools,
13 furniture, appliances, food and clothes. He had a great
14 respect for this country. He was a wonderful and very
15 respectful man who taught us to respect others. He never hurt
16 anyone. He was not a racist like you. He always taught us
17 that the color of our skin does not matter because we are all
18 children of God.

19 The day you killed him, he had his plane ticket to
20 visit his friends and family in Germany, but because of you, he
21 never saw them again, but more painful than that is we will
22 never see him again.

23 I'm fully sure that you are an ignorant peo- -- that
24 ignorant people like you have no idea that all Mexicans like us
25 and those you killed who had a tourist visa to visit and go

1 shopping in the United States contribute an enormous amount of
2 income to this country, and thanks to that we help improve this
3 economy, and also help create many jobs.

4 If you think that killing many defenseless and
5 innocent people makes you powerful, you are completely wrong
6 because you're a stupid coward, and you deserve to suffer in
7 jail and then burn in hell.

8 You have shown the world how stupid and selfish a
9 racist person full of hatred with evil ideas can be, and I
10 think you know what the rest of the good, civilized,
11 warm-hearted people in this world think of you and the other
12 selfish people full of hate just like you.

13 You are an evil parasite for -- that is nothing
14 without weapon. I hope that every night you think about all
15 the people who suffered when you were shooting at them, and
16 hopefully that does not let you sleep. I also hope you always
17 think about all the families that are suffering because of you.

18 People like you don't feel remorse or empathy for
19 human beings. On the contrary, you were happy to kill and hurt
20 all the victims like you killed my father, you stupid bastard.

21 You did not care shooting my dad in the back and
22 killing him because you're a coward. You're a mistake of
23 humanity who has only hurt and murdered people.

24 There are many more things I would like to tell you,
25 but I have respect for the other families who are also going to

1 tell you what you deserve.

2 And, I wish all the families who have suffered a great
3 loss as ours, may God help them and give them resignation.

4 MR. HANNA: Your Honor, if we could take a 15-minute
5 break?

6 THE COURT: Yes, sir.

7 We'll recess until 2:25 on the Court's clock. We'll
8 be resuming our proceedings at 2:25.

9 We'll be in recess until then.

10 (Recess taken 2:07 p.m. until 2:29 p.m.)

11 THE COURT: Be seated, please. If you'll give us just
12 a moment to correct some technical issue we are having at the
13 moment.

14 If you all want to come up. We'll do a sidebar off
15 the record because she can't take a record right now.

16 (Off-the-record bench discussion had.)

17 THE COURT: Okay. She got it.

18 Thank you, Ms. Briggs.

19 Mr. McDonald?

20 MR. McDONALD: Yes, Your Honor. Your Honor, we would
21 like to have the record reflect that the previous person who
22 gave the impact statement was Mr. Tomas Hoffmann, the son of
23 Alexander Hoffmann, deceased, as named in Counts 11 and 34.

24 We would like at this time to read a victim's impact
25 statement provided by Elise Hoffmann-Taus. She asked that it

1 be read, and she asks that this photograph on the Elmo be
2 displayed.

3 She's also the daughter of Alexander Hoffmann, and
4 he's reflected in Counts 11 and 34.

5 Your Honor, my name is Elise Veronica Hoffmann-Taus.
6 I am the daughter of one of the victims of the Defendant
7 Patrick Crusius. This man, whose actions on August 3rd of
8 2019, left many people's lives heart-broken and shattered.
9 Myself included.

10 My father, Alexander Gerhard Hoffmann, was a
11 hardworking family man, emigrated from Germany to Mexico in the
12 late 1980s. He was always striving to make sure his family was
13 taken care of. He had an adventurous and kind heart. As you
14 can see in the picture he took us on all kinds of memorable
15 trips. He loved spending time with us, listening to Beatles
16 and also enjoyed watching James Bond or Star Trek movies. He
17 had an inquisitive engineering mind. We would watch him work
18 on his projects, and he always made time to teach us how things
19 work hoping to see one of his three children become an engineer
20 like him.

21 Sadly, because of Patrick Crusius, he will never have
22 the opportunity to know that his grandson Aidan Wallmann has
23 decided to pursue an engineering degree after high school.

24 At his funeral, the chapel was full of people paying
25 their last respects, not surprising as he was an individual who

1 was always willing to lend a hand to anyone who needed help.

2 Memories of him were shared at his funeral from my
3 extended family in Mexico, to former co-workers and employees
4 from his business, remembering him fondly as a gentle giant
5 with a big heart, we shared for hours.

6 Suffice it to say, writing this letter was a difficult
7 task. As the killer robbed us all, robbed us of the
8 opportunity to see our father again, for our father to see our
9 children, and our grandchildren, and make new memories.

10 He took the life of an amazing and gentle father,
11 uncle and friend. A hardworking man who taught us to be
12 productive individuals in society.

13 He lived a quiet life and was ready to move back to
14 Germany to live as a retired Air Force veteran. The killer
15 robbed him -- this from him as well.

16 Your Honor, please do not be lenient on Patrick
17 Crusius. He terrorized our small transborder community to its
18 knees. A tragedy that will forever have changed the lives of
19 23 people and their relatives, some physically and emotionally
20 forever changed, and some who will never see their loved ones
21 ever again. Sincerely, Elise Veronica Hoffmannn-Taus.

22 MR. HANNA: Your Honor, at this time the Government
23 would like to invite Ms. Bertha Patricia Benavides.

24 (Ms. Benavides approaches the lectern.)

25 MS. BERTHA PATRICIA BENAVIDES: Hello. My name is

1 Bertha Patricia Benavides. I'm the widow of Arturo Benavides.
2 We had been married for 34 years, and you changed my whole
3 life. He was my whole world. He was a good man, an excellent
4 provider, very responsible. He was caring, and he was there
5 for me the whole time.

6 We unfortunately never had children, so you left me
7 all by myself. Thanks to my family I have not been that alone,
8 but I feel -- I feel like I'm missing -- like if it was done
9 yesterday. I'll never get over it.

10 Thanks to my family's support, which has always been
11 there for me, and a lot of good people, and a lot of great
12 institutions that helped me on that awful day, which it didn't
13 take at all a long time to get there. They were all ready to
14 help, all ready to be there for us.

15 My family has always been great and thanks to them and
16 to all the great support of people that I have dealt with, and
17 everything, I have not entered into a profound depression.

18 I miss him. I miss him terribly. He was always there
19 for me, and he was a loving husband. He was my support, moral
20 support.

21 Honestly I just have one question. Why did you do it?
22 But then I answer myself to that question, the main thing that
23 you did that is because you don't know the Lord. You have
24 never gotten close to him because if you knew the Lord you
25 would have never done that. You would have never ruined so

1 many families and hurt so many families.

2 You destroyed so many families including the families
3 of us, the victims' families. And, it will still take a long
4 time to be recovered from that loss and from all the pain that
5 we still suffer like if it was yesterday.

6 All of us, his family, my family have nothing but good
7 memories about my husband. He got a lot of laughter. He was
8 always joking. He was always caring because he was always
9 there for my family and for his family. You destroyed all
10 that. You destroyed all that.

11 You left children without their parents. You left
12 spouses without their spouses, and we still need all of them.
13 But the good thing is every night I pray for all the victims
14 and their families because I know and I thank God that I'm
15 pretty sure my faith tells me that that they're in heaven with
16 him, not suffering anymore. They're happy. They're at peace.

17 I hope you think about all this. Thank you.

18 MR. HANNA: Your Honor, for the record, Ms. Benavides
19 is the wife to Arturo Benavides, deceased, referenced in Counts
20 3 and 26.

21 The Government would like to invite next Ms. Jocelyn
22 Davila.

23 (Miss Davila approaches the witness stand.)

24 MISS JOCELYN DAVILA: (Crying) August 3rd started as a
25 regular Saturday morning when waking up to the noise of my

1 mother, sister and cousin, laughing in the restroom. They were
2 getting ready for my sister's soccer fundraiser. I asked if
3 I -- if I can go for more help. My mom said it was going to be
4 boring, but I insisted to go, so I rushed to get ready for the
5 fundraiser to be able to help out.

6 My mom said to leave my phone behind, so I don't get
7 distracted on my phone. Before I left, I told my brother, "I
8 love you *Flaco*."

9 My sister's soccer team received a lot of help before
10 the shooting disaster struck. At 10:00 evil entered my beloved
11 city. Moments before -- before the clock struck 10:00, I took
12 a little break under the canopy. I was drinking *agua fresca*,
13 and then I returned back to my spot.

14 It was at the -- at the right entrance. I -- the
15 girls and I were passing out fliers to join the soccer team,
16 and -- and I heard the first shot. I thought it was fireworks
17 at first, and then I heard shots getting closer, so I
18 instructed the girls to run inside Walmart to the bakery.

19 When we approached the bakery, the ladies told us
20 we're -- we're not allowed in; only for employees. Then I told
21 them, "They're shooting at us." They still refused to let us
22 in, so we pushed ourselves in and hide under the counter.

23 A few minutes after we hid, I heard him enter. We
24 came -- we came -- he started shooting, and then I heard
25 someone fall.

1 I told my cousin to call 911, but they weren't
2 answering. I started to get worried for my sister's safety. I
3 prayed to God to protect her because I love her too much.
4 She's like my best friend. I told God multiple times to
5 protect my sister.

6 The girls, the bakery ladies and I crawled out when we
7 heard the shots further from us. When I walked out of Walmart,
8 I went into panic. I was crying -- I was crying frantically.
9 I couldn't control it. I saw my Grandma question me, "Where --
10 where's CC?"

11 I responded, "I don't know where she is."

12 I continued walking with the girls. We found one of
13 the moms of the -- of the soccer team. One of the moms was
14 shot in the leg. I asked her if she know -- if she knew if my
15 sister was okay. She responded, "I don't know." And, then I
16 asked if she knew if my mom and dad were okay and she
17 responded, "I don't know."

18 I was extremely worried about not having a clue if
19 they were okay or got hurt in the process.

20 Another mom from the soccer team drove the girls and
21 me to her house. I asked my cousin if I could use her phone to
22 call my mom. She said yes, but my mom didn't pick up the call.
23 I got worried.

24 Moments later my mom called. It was through FaceTime.
25 I didn't realize -- I didn't realize my mom was at the

1 hospital, and I was just relieved that she wasn't hurt.

2 I started freaking out, but she told me, "*Mami*, this
3 is just going to make us stronger." Then I asked my mom if she
4 heard anything about CC? She responded yes. She says,
5 "They're okay, *Mami*."

6 Moments later after I received a call from my mom, my
7 cousin's dad picked us up at the house we were at, and then we
8 drove where my sister was. I ran into the house and hugged my
9 sister. I couldn't let go of her.

10 My cousin's dad took us back home. As soon as I got
11 home, I hugged my brother and I started crying. My brother was
12 comforting me.

13 When I was home I was afraid of being by myself. I
14 was with my -- so I was with my sister and my cousin. Hours
15 later, my mom and dad came back home. I saw my dad has been --
16 got -- I noticed that my dad was wounded. I was freaking out,
17 and my mom pulled me to the side and told me, "*Mami*, we're
18 okay. This is just going to make us stronger."

19 Several of my dad's family came to see -- to come and
20 see how -- how my dad was doing. I felt overwhelmed with a lot
21 of people at the house.

22 That night I couldn't sleep by myself, so I slept with
23 my parents. I put my mattress in their bedroom, and there was
24 thunder that night. It scared me. I had nightmares of the
25 shooter will come to my house and kill me. I was terrified. I

1 was terrified of him.

2 One week later, my mom needed to go to the store to
3 buy stuff to make food. I went because I didn't want her to be
4 alone at the store. I started crying uncontrollably because I
5 got flashbacks of what happened.

6 Two weeks later, I went back to school, and I entered
7 my math class. My teacher hugged me, and I felt all my stress
8 came off with a simple hug.

9 I was -- I was -- I was scared of eating in the
10 cafeteria, so my principal let me eat in the counselor's room.
11 Some days later, I felt ready to eat in the cafeteria, but I
12 was wrong. I had a panic attack because my -- because my brain
13 was telling me the shooter was here for -- for me to kill me.

14 One of my friends noted -- one of my friends noticed
15 seeing me freak out, so she took me to the counselor, and my
16 sister saw me at the counselor's and hugged me and asked what
17 had happened. I told her and she continued hugging me.

18 One month later, it was my *quince*, but I wasn't -- I
19 wasn't excited about the party. I was continuing having the
20 nightmares of the shooter would come and kill me. I was
21 terrified having the party, but my mom assured me he was locked
22 away and would never reach us again.

23 I used to be a happy, normal teenager until a coward
24 chose to use violence against -- against the innocent. I'm no
25 longer that happy -- I'm no longer as happy as I used to be.

1 MR. HANNA: Your Honor, the United States would like
2 to invite Miss G.D. to speak.

3 (Miss G.D. approaches the lectern.)

4 MISS GENESIS DAVILA: Hello everyone. My name is
5 Genesis Davila. I -- I was in the front of the Walmart with my
6 team fundraising. This is my story.

7 The view of fireworks in the sky, we only see the
8 colors and not the sound. Every Fourth of July has come and
9 past, but none of them will ever be the same.

10 The tears that roll down every year once I hear that
11 bang, bang in the air. Everything has changed, not for the
12 good. It is no longer hanging around people, but being by
13 myself in a dark room where the light of the few fireworks
14 pierce through the blinds.

15 Ever since that day of August 3rd, I have lived in
16 my -- in fear once again. I have gone back to the little
17 scared girl that always wanted to be around mommy and daddy and
18 only them.

19 Let us go back to the day where everything changed. I
20 still remember everything so clearly, even though I have tried
21 to erase it from my memories.

22 I spent that morning hearing my mom yell at me, my
23 sister and my cousin to get ready so we wouldn't be late, but I
24 wish we had arrived late that day. We had gotten to the
25 Walmart next to the Cielo Vista Mall. We were unloading the

1 *aguas frescas* from my dad's truck, setting up our stand, so we
2 can earn enough money for our out-of-town tournament.

3 I remember greeting my coaches. I gave them both hugs
4 not knowing it will be the last time I would hug Coach Memo.

5 My parents were in the middle of the Walmart selling
6 snacks while I was at one side of the store, and my sister and
7 cousin were at the other side trying to get donations from
8 people entering and leaving the store.

9 We were having so much fun that day, getting lots of
10 donations. We were so lively just for it to be turned into a
11 gloomy day. Not even a minute after our coach checked on us,
12 we heard the first shot. We looked around in confusion
13 thinking it was fireworks, but how dense were we because
14 fireworks in the middle of the day?

15 Seconds later, we heard the round of shots. That is
16 when the terror of not knowing where everyone was scared me.
17 Me and my teammates yelled -- me and my teammates ran. We
18 yelled, "There's a shooter. There's a shooter."

19 I remember hearing people yelling, the bullets echoing
20 in the store, the fire alarm going off and just hearing the
21 adult with us yelling, "Just run."

22 We finally made it to the back of the Walmart.
23 Running out those doors gave me a relief knowing I was safe,
24 knowing that no harm could be done to me anymore. But oh, what
25 a lie that was.

1 We got to the parking lot of the movie theaters that
2 was behind the Walmart. I finally started realizing what was
3 happening. I did not cry at the beginning. I was in shock,
4 but once my body cooled down, I felt suffocated. I could not
5 control my breathing. I was out of control. People around me
6 started to comfort me saying, "Take deep, big breaths, *Mija*,"
7 or "Everything is going to be okay." Those words are going to
8 be engraved in me forever.

9 Once I finally caught my breath, I burst into tears.
10 Scared of not knowing where my parents were, my cousin or
11 sister. I could not find them. I was scared something
12 horrible happened to them. Thoughts started racing in my head
13 thinking the worst things possible.

14 Then the adult with us going to risk his life for our
15 safety. He told us, "I'm going to get my car." We yelled and
16 cried to him to not go, but at the end he did not listen. He
17 went off searching for his car, but finally it felt so long.

18 I saw my mom running towards me. I ran to her. It
19 felt like a movie, felt like we were running in slow motion.
20 We hugged each other. I longed for that warm hug from my
21 mother, which almost made me forget what was happening, but
22 something felt off. My father was not with her. I looked
23 around thinking he would pop out of somewhere, but nothing.
24 So, I got worried. Asking my mother, "Where is dad? Where is
25 he?"

1 All she told me was, "He's okay."

2 I asked about my sister and cousin. She said, "They
3 are with your Grandma." Then I saw her arm. It was bloody. I
4 got so worried asking what happened. "Did you get shot?" But
5 gladly it was just a ricochet. It didn't harm her that badly.

6 The adult that went looking for his car came back
7 yelling at us to, Hurry. Run. Run. I got the car.

8 We ran back down to the Walmart parking lot. We got
9 to the car. My mom tells me she cannot go with us telling the
10 adult with me that she trusts him and to take me away.

11 I cried to her telling her not to leave me again.
12 That is when I spotted him. He was right there. The person
13 who caused this pain. I yelled, "He is right there." I threw
14 myself in the car. We drove off without my mom. I kept
15 yelling, "The shooter is right there. He's right there."

16 The adult said something that will be engraved into me
17 and that has stayed in my head to until this day. He said,
18 "Put your heads down. If he shoots, he'll shoot me." The
19 bravery of him hit me that day.

20 We finally leave. We drove off to his girlfriend's
21 house. No one spoke on the drive over there. It was complete
22 silence. Once we entered the house, we went to sit down on the
23 couch. Just the five of us sitting there in silence. They
24 offered water to us, we accepted, but no water was drunk.

25 We stayed there for a long time until one of the

1 adults there got a call from my mom. Oh, how I waited to see
2 her again. She was telling me that I had to go with someone
3 else, and I would wait in that house until someone picked me
4 up. So there I go, heading to a new house. I waited for what
5 felt like a year. They kept asking me what happened, but I
6 couldn't say anything. I was still in shock from it all. I
7 had no one that was there to comfort me. I waited and waited.
8 Yet no one was there for me, so I just had to be patient,
9 something I could not do.

10 Which hours passed, I finally heard a car coming. I
11 heard the worried voices calling my name. It was my sister and
12 cousin. I just felt -- I just felt relieved to see them. We
13 cried in each others's arms not letting go of one another. I
14 asked them both, "Are you okay?" They both said, "Yes." I
15 turned to my cousin. I repeated my question so many times to
16 her because if something had happened to her, it would have
17 been my fault. The guilt of knowing that I made her come to
18 the fundraiser with us when she didn't want to go. I would
19 have blamed it on myself if she got harmed.

20 We finally drove off to my house. Oh, what it felt to
21 be back home in the comfort of my bedsheets, but it was just
22 us. My parents were not home. We did not have any way to
23 contact them. The word got around my family that an accident
24 had happened. Everyone started to show up, but my parents were
25 not even home yet. No word of them.

1 We waited and waited once more. I already knew that
2 something didn't feel right. I saw my mom coming to the door.
3 I went to go hug her once more, but I stopped myself because
4 the first thing I saw was my father in hospital scrubs. I
5 could not believe it. It was so hard to see my father limping
6 to a chair. The man I admired. The man that raised me. Just
7 seeing him in pain broke me.

8 I asked him and asked him what happened to him. He
9 did not want to tell me. He kept telling me he was okay. He
10 kept lying to me, but after a while of me being relentless, he
11 said, "I got shot on the leg."

12 I felt the tears rolling down my face. I saw his eyes
13 get watery as well. When I heard that, the world just stopped.
14 Someone that I loved got hurt.

15 Later that day, I heard that both of my coaches were
16 in the ICU. I felt sick to my stomach. I didn't know if they
17 would survive or not. Coach Luis did, but Coach Memo didn't.
18 It broke me. I only got to see him two or three times before
19 he passed away.

20 Even in the hospital bed, he was his normal self. The
21 first time I saw him, I couldn't contain my tears. They kept
22 coming down. It hurt to see him in that bed. The last time I
23 saw him, he gave me a surprise. Ms. Jessica told me, "We got a
24 surprise for you." I didn't know what to expect. Ms. Jessica
25 attached something to his throat where Coach Memo was able to

1 talk to me. I burst into tears. He told me, "Don't cry.
2 Everything's going to be okay."

3 I was happy to hear his voice and really believed that
4 he would recover, but on April 25th, we got the news that he
5 passed away.

6 My mom didn't tell me anything at first. She told me
7 to get in the car, so we could drive to Ms. Jessica's home. On
8 the drive to her house, she told me. My heart broke. I
9 couldn't feel anything.

10 The day of his funeral I thought I wouldn't be able to
11 see him, but I just stayed in the back. I kept telling myself
12 it wasn't real. I wanted to yell to get up. I kept repeating
13 it and repeating it. I didn't want it to be real. I just
14 wanted to see him one more time.

15 But then I remembered what Ms. Jessica told us all.
16 "We didn't lose him. We just gained an angel." And, I believe
17 that fully. He will always be in our heart because we have to
18 remember that he is -- tough.

19 I just want to recognize him for my soccer career. He
20 is the reason why I continue to play. I was ready to quit, but
21 I couldn't. Every time before my -- my soccer games start, and
22 we do our prayer for our health, I pray to him. I talk to him
23 because that is where I feel at home. He taught me so much. I
24 know he's helping me through everything. When I make a
25 mistake, I will think of what he would have told me. I really

1 miss him.

2 We are all grieving his loss, but why was it us in
3 pain and not you?

4 Why was it us that are dead and not him? I will
5 always hate him. I will wish that he died and not my people.

6 Over these four years I grew to hate him more and
7 more. I will never forgive him. He hurt my community. He
8 hurt my loved ones. He hurt me.

9 I was not able to sleep by myself for over months. I
10 had to sleep with my parents. I had nightmares of that day,
11 and I wish I was able to forget it. I had to endure that all
12 at the age of 12. I am now 16 years old, and I still have
13 nightmares of that day.

14 I am no longer the happy energetic girl I was. I know
15 longer think like a teenager should. Now, when I go into a
16 store, I look for exits just in case it happens again. I look
17 for hiding spots just in case I can't find an exit. I look for
18 something that will defend me just in case if I have to defend
19 myself.

20 A teenager shouldn't be thinking that. I should be
21 having fun without caring, but no. Now I live my life in fear.
22 I live in the continuous memory of a shooting. A person with
23 hatred in his heart. He didn't care what he did. He just
24 wanted to kill us. He had the intention of doing that.

25 I suffer from -- I suffer from PTSD of that day.

1 Every year when the day comes closer to the Fourth of July, I
2 jump and duck down to shield myself because it takes me back to
3 the day of August 3rd.

4 I want you dead. I hate you so much. You made not
5 only me, my family suffer, you made my community suffer?

6 But we were able to get back on our feet because we
7 are El Paso strong.

8 I hope you love the heat because hell has a special
9 spot for you. I want you to rot in your cell for eternity. I
10 hate you and I hope you remember that. No one invited you to
11 our quiet city. We want you out of here. No one wants you. I
12 want you dead for what you did. And, if you forgot, *Mi nombre*
13 *es Genesis Davila*. You better not forget that.

14 MR. HANNA: Her father is listed in Counts 49 and 71,
15 and, Your Honor, for the record, both young ladies were members
16 of the youth soccer team outside the Walmart on August 3rd.

17 Judge, that concludes the speakers that the Government
18 would like to invite for today. We would ask the Court to
19 consider recessing until tomorrow.

20 THE COURT: Tomorrow we're reconvening at 9:00?

21 THE CLERK: 10:00, Your Honor.

22 THE COURT: 10:00?

23 THE CLERK: Yes, sir.

24 THE COURT: All right. So, then we'll be in recess
25 until tomorrow at 10:00.

1 (Proceedings concluded 3:10 p.m.)

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I N D E XVICTIM IMPACT STATEMENTS

Deborah Anchondo	49
Gilberto Tito Anchondo	51
Raul Loya	57
Alfredo Hernandez	58
Stephanie Melendez	62
Raymond Attaguile	65
Kathleen Johnson	71
Kaitlyn Melendez	72
Tomas Hoffmann	79
Elise Veronica Hoffmann-Taus	84
Bertha Patricia Benavides	85
Jocelyn Davila	87
Genesis Davila	92

CERTIFICATION

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. I further certify that the transcript fees and format comply with those prescribed by the Court and the Judicial Conference of the United States.

Date: July 31, 2023

/s/ Maria del Socorro Briggs

Maria del Socorro Briggs